

1 AMENDMENT TO HOUSE BILL 416

2 AMENDMENT NO. _____. Amend House Bill 416, AS AMENDED, by
3 replacing the title with the following:

4 "AN ACT in relation to minors."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 5. The Department of State Police Law of the
8 Civil Administrative Code of Illinois is amended by changing
9 Section 2605-355 as follows:

10 (20 ILCS 2605/2605-355) (was 20 ILCS 2605/55a in part)

11 Sec. 2605-355. Delinquent minors; statewide central
12 juvenile records system. To develop a separate statewide
13 central juvenile records system for persons arrested prior to
14 the age of 18 ~~17~~ under Section 5-401 of the Juvenile Court
15 Act of 1987 or adjudicated delinquent minors and to make
16 information available to local law enforcement officers so
17 that law enforcement officers will be able to obtain rapid
18 access to the background of the minor from other
19 jurisdictions to the end that the juvenile police officers
20 can make appropriate decisions that will best serve the
21 interest of the child and the community. The Department

1 shall submit a quarterly report to the General Assembly and
2 Governor. The report shall contain the number of juvenile
3 records that the Department has received in that quarter and
4 a list, by category, of offenses that minors were arrested
5 for or convicted of by age, race, and gender.

6 (Source: P.A. 90-18, eff. 7-1-97; 90-130, eff. 1-1-98;
7 90-372, eff. 7-1-98; 90-590, eff. 1-1-00; 90-655, eff.
8 7-30-98; 90-793, eff. 8-14-98; 91-239, eff. 1-1-00.)

9 Section 10. The Criminal Identification Act is amended
10 by changing Section 5 as follows:

11 (20 ILCS 2630/5) (from Ch. 38, par. 206-5)

12 Sec. 5. Arrest reports; expungement.

13 (a) All policing bodies of this State shall furnish to
14 the Department, daily, in the form and detail the Department
15 requires, fingerprints and descriptions of all persons who
16 are arrested on charges of violating any penal statute of
17 this State for offenses that are classified as felonies and
18 Class A or B misdemeanors and of all minors of the age of 10
19 and over who have been arrested for an offense which would be
20 a felony if committed by an adult, and may forward such
21 fingerprints and descriptions for minors arrested for Class A
22 or B misdemeanors. Moving or nonmoving traffic violations
23 under the Illinois Vehicle Code shall not be reported except
24 for violations of Chapter 4, Section 11-204.1, or Section
25 11-501 of that Code. In addition, conservation offenses, as
26 defined in the Supreme Court Rule 501(c), that are classified
27 as Class B misdemeanors shall not be reported.

28 Whenever an adult or minor prosecuted as an adult, not
29 having previously been convicted of any criminal offense or
30 municipal ordinance violation, charged with a violation of a
31 municipal ordinance or a felony or misdemeanor, is acquitted
32 or released without being convicted, whether the acquittal or

1 release occurred before, on, or after the effective date of
2 this amendatory Act of 1991, the Chief Judge of the circuit
3 wherein the charge was brought, any judge of that circuit
4 designated by the Chief Judge, or in counties of less than
5 3,000,000 inhabitants, the presiding trial judge at the
6 defendant's trial may upon verified petition of the defendant
7 order the record of arrest expunged from the official records
8 of the arresting authority and the Department and order that
9 the records of the clerk of the circuit court be sealed until
10 further order of the court upon good cause shown and the name
11 of the defendant obliterated on the official index required
12 to be kept by the circuit court clerk under Section 16 of the
13 Clerks of Courts Act, but the order shall not affect any
14 index issued by the circuit court clerk before the entry of
15 the order. The Department may charge the petitioner a fee
16 equivalent to the cost of processing any order to expunge or
17 seal the records, and the fee shall be deposited into the
18 State Police Services Fund. The records of those arrests,
19 however, that result in a disposition of supervision for any
20 offense shall not be expunged from the records of the
21 arresting authority or the Department nor impounded by the
22 court until 2 years after discharge and dismissal of
23 supervision. Those records that result from a supervision
24 for a violation of Section 3-707, 3-708, 3-710, 5-401.3, or
25 11-503 of the Illinois Vehicle Code or a similar provision of
26 a local ordinance, or for a violation of Section 12-3.2,
27 12-15 or 16A-3 of the Criminal Code of 1961, or probation
28 under Section 10 of the Cannabis Control Act, Section 410 of
29 the Illinois Controlled Substances Act, Section 12-4.3(b)(1)
30 and (2) of the Criminal Code of 1961 (as those provisions
31 existed before their deletion by Public Act 89-313), Section
32 10-102 of the Illinois Alcoholism and Other Drug Dependency
33 Act when the judgment of conviction has been vacated, Section
34 40-10 of the Alcoholism and Other Drug Abuse and Dependency

1 Act when the judgment of conviction has been vacated, or
2 Section 10 of the Steroid Control Act shall not be expunged
3 from the records of the arresting authority nor impounded by
4 the court until 5 years after termination of probation or
5 supervision. Those records that result from a supervision
6 for a violation of Section 11-501 of the Illinois Vehicle
7 Code or a similar provision of a local ordinance, shall not
8 be expunged. All records set out above may be ordered by the
9 court to be expunged from the records of the arresting
10 authority and impounded by the court after 5 years, but shall
11 not be expunged by the Department, but shall, on court order
12 be sealed by the Department and may be disseminated by the
13 Department only as required by law or to the arresting
14 authority, the State's Attorney, and the court upon a later
15 arrest for the same or a similar offense or for the purpose
16 of sentencing for any subsequent felony. Upon conviction for
17 any offense, the Department of Corrections shall have access
18 to all sealed records of the Department pertaining to that
19 individual.

20 (a-5) Those records maintained by the Department for
21 persons arrested prior to their 18th ~~17th~~ birthday shall be
22 expunged as provided in Section 5-915 of the Juvenile Court
23 Act of 1987.

24 (b) Whenever a person has been convicted of a crime or
25 of the violation of a municipal ordinance, in the name of a
26 person whose identity he has stolen or otherwise come into
27 possession of, the aggrieved person from whom the identity
28 was stolen or otherwise obtained without authorization, upon
29 learning of the person having been arrested using his
30 identity, may, upon verified petition to the chief judge of
31 the circuit wherein the arrest was made, have a court order
32 entered nunc pro tunc by the chief judge to correct the
33 arrest record, conviction record, if any, and all official
34 records of the arresting authority, the Department, other

1 criminal justice agencies, the prosecutor, and the trial
2 court concerning such arrest, if any, by removing his name
3 from all such records in connection with the arrest and
4 conviction, if any, and by inserting in the records the name
5 of the offender, if known or ascertainable, in lieu of the
6 aggrieved's name. The records of the clerk of the circuit
7 court clerk shall be sealed until further order of the court
8 upon good cause shown and the name of the aggrieved person
9 obliterated on the official index required to be kept by the
10 circuit court clerk under Section 16 of the Clerks of Courts
11 Act, but the order shall not affect any index issued by the
12 circuit court clerk before the entry of the order. Nothing
13 in this Section shall limit the Department of State Police or
14 other criminal justice agencies or prosecutors from listing
15 under an offender's name the false names he or she has used.
16 For purposes of this Section, convictions for moving and
17 nonmoving traffic violations other than convictions for
18 violations of Chapter 4, Section 11-204.1 or Section 11-501
19 of the Illinois Vehicle Code shall not be a bar to expunging
20 the record of arrest and court records for violation of a
21 misdemeanor or municipal ordinance.

22 (c) Whenever a person who has been convicted of an
23 offense is granted a pardon by the Governor which
24 specifically authorizes expungement, he may, upon verified
25 petition to the chief judge of the circuit where the person
26 had been convicted, any judge of the circuit designated by
27 the Chief Judge, or in counties of less than 3,000,000
28 inhabitants, the presiding trial judge at the defendant's
29 trial, may have a court order entered expunging the record of
30 arrest from the official records of the arresting authority
31 and order that the records of the clerk of the circuit court
32 and the Department be sealed until further order of the court
33 upon good cause shown or as otherwise provided herein, and
34 the name of the defendant obliterated from the official index

1 requested to be kept by the circuit court clerk under Section
2 16 of the Clerks of Courts Act in connection with the arrest
3 and conviction for the offense for which he had been pardoned
4 but the order shall not affect any index issued by the
5 circuit court clerk before the entry of the order. All
6 records sealed by the Department may be disseminated by the
7 Department only as required by law or to the arresting
8 authority, the State's Attorney, and the court upon a later
9 arrest for the same or similar offense or for the purpose of
10 sentencing for any subsequent felony. Upon conviction for
11 any subsequent offense, the Department of Corrections shall
12 have access to all sealed records of the Department
13 pertaining to that individual. Upon entry of the order of
14 expungement, the clerk of the circuit court shall promptly
15 mail a copy of the order to the person who was pardoned.

16 (c-5) Whenever a person has been convicted of criminal
17 sexual assault, aggravated criminal sexual assault, predatory
18 criminal sexual assault of a child, criminal sexual abuse, or
19 aggravated criminal sexual abuse, the victim of that offense
20 may request that the State's Attorney of the county in which
21 the conviction occurred file a verified petition with the
22 presiding trial judge at the defendant's trial to have a
23 court order entered to seal the records of the clerk of the
24 circuit court in connection with the proceedings of the trial
25 court concerning that offense. However, the records of the
26 arresting authority and the Department of State Police
27 concerning the offense shall not be sealed. The court, upon
28 good cause shown, shall make the records of the clerk of the
29 circuit court in connection with the proceedings of the trial
30 court concerning the offense available for public inspection.

31 (d) Notice of the petition for subsections (a), (b), and
32 (c) shall be served upon the State's Attorney or prosecutor
33 charged with the duty of prosecuting the offense, the
34 Department of State Police, the arresting agency and the

1 chief legal officer of the unit of local government affecting
2 the arrest. Unless the State's Attorney or prosecutor, the
3 Department of State Police, the arresting agency or such
4 chief legal officer objects to the petition within 30 days
5 from the date of the notice, the court shall enter an order
6 granting or denying the petition. The clerk of the court
7 shall promptly mail a copy of the order to the person, the
8 arresting agency, the prosecutor, the Department of State
9 Police and such other criminal justice agencies as may be
10 ordered by the judge.

11 (e) Nothing herein shall prevent the Department of State
12 Police from maintaining all records of any person who is
13 admitted to probation upon terms and conditions and who
14 fulfills those terms and conditions pursuant to Section 10 of
15 the Cannabis Control Act, Section 410 of the Illinois
16 Controlled Substances Act, Section 12-4.3 of the Criminal
17 Code of 1961, Section 10-102 of the Illinois Alcoholism and
18 Other Drug Dependency Act, Section 40-10 of the Alcoholism
19 and Other Drug Abuse and Dependency Act, or Section 10 of the
20 Steroid Control Act.

21 (f) No court order issued pursuant to the expungement
22 provisions of this Section shall become final for purposes of
23 appeal until 30 days after notice is received by the
24 Department. Any court order contrary to the provisions of
25 this Section is void.

26 (g) Except as otherwise provided in subsection (c-5) of
27 this Section, the court shall not order the sealing or
28 expungement of the arrest records and records of the circuit
29 court clerk of any person granted supervision for or
30 convicted of any sexual offense committed against a minor
31 under 18 years of age. For the purposes of this Section,
32 "sexual offense committed against a minor" includes but is
33 not limited to the offenses of indecent solicitation of a
34 child or criminal sexual abuse when the victim of such

1 offense is under 18 years of age.

2 (Source: P.A. 91-295, eff. 1-1-00; 91-357, eff. 7-29-99;
3 92-651, eff. 7-11-02.)

4 Section 15. The Juvenile Court Act of 1987 is amended
5 by changing Sections 1-7, 1-8, 1-9, 2-10, 3-12, 4-9, 5-105,
6 5-120, 5-130, 5-407, 5-410, 5-901, 5-905, and 5-915 as
7 follows:

8 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

9 Sec. 1-7. Confidentiality of law enforcement records.

10 (A) Inspection and copying of law enforcement records
11 maintained by law enforcement agencies that relate to a minor
12 who has been arrested or taken into custody before his or her
13 18th ~~17th~~ birthday shall be restricted to the following:

14 (1) Any local, State or federal law enforcement
15 officers of any jurisdiction or agency when necessary for
16 the discharge of their official duties during the
17 investigation or prosecution of a crime or relating to a
18 minor who has been adjudicated delinquent and there has
19 been a previous finding that the act which constitutes
20 the previous offense was committed in furtherance of
21 criminal activities by a criminal street gang. For
22 purposes of this Section, "criminal street gang" has the
23 meaning ascribed to it in Section 10 of the Illinois
24 Streetgang Terrorism Omnibus Prevention Act.

25 (2) Prosecutors, probation officers, social
26 workers, or other individuals assigned by the court to
27 conduct a pre-adjudication or pre-disposition
28 investigation, and individuals responsible for
29 supervising or providing temporary or permanent care and
30 custody for minors pursuant to the order of the juvenile
31 court, when essential to performing their
32 responsibilities.

1 (3) Prosecutors and probation officers:

2 (a) in the course of a trial when institution
3 of criminal proceedings has been permitted or
4 required under Section 5-805; or

5 (b) when institution of criminal proceedings
6 has been permitted or required under Section 5-805
7 and such minor is the subject of a proceeding to
8 determine the amount of bail; or

9 (c) when criminal proceedings have been
10 permitted or required under Section 5-805 and such
11 minor is the subject of a pre-trial investigation,
12 pre-sentence investigation, fitness hearing, or
13 proceedings on an application for probation.

14 (4) Adult and Juvenile Prisoner Review Board.

15 (5) Authorized military personnel.

16 (6) Persons engaged in bona fide research, with the
17 permission of the Presiding Judge of the Juvenile Court
18 and the chief executive of the respective law enforcement
19 agency; provided that publication of such research
20 results in no disclosure of a minor's identity and
21 protects the confidentiality of the minor's record.

22 (7) Department of Children and Family Services
23 child protection investigators acting in their official
24 capacity.

25 (8) The appropriate school official. Inspection
26 and copying shall be limited to law enforcement records
27 transmitted to the appropriate school official by a local
28 law enforcement agency under a reciprocal reporting
29 system established and maintained between the school
30 district and the local law enforcement agency under
31 Section 10-20.14 of the School Code concerning a minor
32 enrolled in a school within the school district who has
33 been arrested or taken into custody for any of the
34 following offenses:

1 (i) unlawful use of weapons under Section 24-1
2 of the Criminal Code of 1961;

3 (ii) a violation of the Illinois Controlled
4 Substances Act;

5 (iii) a violation of the Cannabis Control Act;
6 or

7 (iv) a forcible felony as defined in Section
8 2-8 of the Criminal Code of 1961.

9 (9) Mental health professionals on behalf of the
10 Illinois Department of Corrections or the Department of
11 Human Services or prosecutors who are evaluating,
12 prosecuting, or investigating a potential or actual
13 petition brought under the Sexually Violent Persons
14 Commitment Act relating to a person who is the subject of
15 juvenile law enforcement records or the respondent to a
16 petition brought under the Sexually Violent Persons
17 Commitment Act who is the subject of the juvenile law
18 enforcement records sought. Any records and any
19 information obtained from those records under this
20 paragraph (9) may be used only in sexually violent
21 persons commitment proceedings.

22 (B) (1) Except as provided in paragraph (2), no law
23 enforcement officer or other person or agency may
24 knowingly transmit to the Department of Corrections,
25 Adult Division or the Department of State Police or to
26 the Federal Bureau of Investigation any fingerprint or
27 photograph relating to a minor who has been arrested or
28 taken into custody before his or her 18th ~~17th~~ birthday,
29 unless the court in proceedings under this Act authorizes
30 the transmission or enters an order under Section 5-805
31 permitting or requiring the institution of criminal
32 proceedings.

33 (2) Law enforcement officers or other persons or
34 agencies shall transmit to the Department of State

1 Police copies of fingerprints and descriptions of all
2 minors who have been arrested or taken into custody
3 before their 18th ~~17th~~ birthday for the offense of
4 unlawful use of weapons under Article 24 of the Criminal
5 Code of 1961, a Class X or Class 1 felony, a forcible
6 felony as defined in Section 2-8 of the Criminal Code of
7 1961, or a Class 2 or greater felony under the Cannabis
8 Control Act, the Illinois Controlled Substances Act, or
9 Chapter 4 of the Illinois Vehicle Code, pursuant to
10 Section 5 of the Criminal Identification Act.
11 Information reported to the Department pursuant to this
12 Section may be maintained with records that the
13 Department files pursuant to Section 2.1 of the Criminal
14 Identification Act. Nothing in this Act prohibits a law
15 enforcement agency from fingerprinting a minor taken into
16 custody or arrested before his or her 18th ~~17th~~ birthday
17 for an offense other than those listed in this paragraph
18 (2).

19 (C) The records of law enforcement officers concerning
20 all minors under 18 ~~17~~ years of age must be maintained
21 separate from the records of arrests and may not be open to
22 public inspection or their contents disclosed to the public
23 except by order of the court or when the institution of
24 criminal proceedings has been permitted or required under
25 Section 5-805 or such a person has been convicted of a crime
26 and is the subject of pre-sentence investigation or
27 proceedings on an application for probation or when provided
28 by law.

29 (D) Nothing contained in subsection (C) of this Section
30 shall prohibit the inspection or disclosure to victims and
31 witnesses of photographs contained in the records of law
32 enforcement agencies when the inspection and disclosure is
33 conducted in the presence of a law enforcement officer for
34 the purpose of the identification or apprehension of any

1 person subject to the provisions of this Act or for the
2 investigation or prosecution of any crime.

3 (E) Law enforcement officers may not disclose the
4 identity of any minor in releasing information to the general
5 public as to the arrest, investigation or disposition of any
6 case involving a minor.

7 (F) Nothing contained in this Section shall prohibit law
8 enforcement agencies from communicating with each other by
9 letter, memorandum, teletype or intelligence alert bulletin
10 or other means the identity or other relevant information
11 pertaining to a person under 18 ~~17~~ years of age if there are
12 reasonable grounds to believe that the person poses a real
13 and present danger to the safety of the public or law
14 enforcement officers. The information provided under this
15 subsection (F) shall remain confidential and shall not be
16 publicly disclosed, except as otherwise allowed by law.

17 (G) Nothing in this Section shall prohibit the right of
18 a Civil Service Commission or appointing authority of any
19 state, county or municipality examining the character and
20 fitness of an applicant for employment with a law enforcement
21 agency, correctional institution, or fire department from
22 obtaining and examining the records of any law enforcement
23 agency relating to any record of the applicant having been
24 arrested or taken into custody before the applicant's 18th
25 ~~17th~~ birthday.

26 (Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00;
27 92-415, eff. 8-17-01.)

28 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

29 Sec. 1-8. Confidentiality and accessibility of juvenile
30 court records.

31 (A) Inspection and copying of juvenile court records
32 relating to a minor who is the subject of a proceeding under
33 this Act shall be restricted to the following:

1 (1) The minor who is the subject of record, his
2 parents, guardian and counsel.

3 (2) Law enforcement officers and law enforcement
4 agencies when such information is essential to executing
5 an arrest or search warrant or other compulsory process,
6 or to conducting an ongoing investigation or relating to
7 a minor who has been adjudicated delinquent and there has
8 been a previous finding that the act which constitutes
9 the previous offense was committed in furtherance of
10 criminal activities by a criminal street gang.

11 Before July 1, 1994, for the purposes of this
12 Section, "criminal street gang" means any ongoing
13 organization, association, or group of 3 or more persons,
14 whether formal or informal, having as one of its primary
15 activities the commission of one or more criminal acts
16 and that has a common name or common identifying sign,
17 symbol or specific color apparel displayed, and whose
18 members individually or collectively engage in or have
19 engaged in a pattern of criminal activity.

20 Beginning July 1, 1994, for purposes of this
21 Section, "criminal street gang" has the meaning ascribed
22 to it in Section 10 of the Illinois Streetgang Terrorism
23 Omnibus Prevention Act.

24 (3) Judges, hearing officers, prosecutors,
25 probation officers, social workers or other individuals
26 assigned by the court to conduct a pre-adjudication or
27 predisposition investigation, and individuals responsible
28 for supervising or providing temporary or permanent care
29 and custody for minors pursuant to the order of the
30 juvenile court when essential to performing their
31 responsibilities.

32 (4) Judges, prosecutors and probation officers:

33 (a) in the course of a trial when institution
34 of criminal proceedings has been permitted or

1 required under Section 5-805; or

2 (b) when criminal proceedings have been
3 permitted or required under Section 5-805 and a
4 minor is the subject of a proceeding to determine
5 the amount of bail; or

6 (c) when criminal proceedings have been
7 permitted or required under Section 5-805 and a
8 minor is the subject of a pre-trial investigation,
9 pre-sentence investigation or fitness hearing, or
10 proceedings on an application for probation; or

11 (d) when a minor becomes 18 17 years of age or
12 older, and is the subject of criminal proceedings,
13 including a hearing to determine the amount of bail,
14 a pre-trial investigation, a pre-sentence
15 investigation, a fitness hearing, or proceedings on
16 an application for probation.

17 (5) Adult and Juvenile Prisoner Review Boards.

18 (6) Authorized military personnel.

19 (7) Victims, their subrogees and legal
20 representatives; however, such persons shall have access
21 only to the name and address of the minor and information
22 pertaining to the disposition or alternative adjustment
23 plan of the juvenile court.

24 (8) Persons engaged in bona fide research, with the
25 permission of the presiding judge of the juvenile court
26 and the chief executive of the agency that prepared the
27 particular records; provided that publication of such
28 research results in no disclosure of a minor's identity
29 and protects the confidentiality of the record.

30 (9) The Secretary of State to whom the Clerk of the
31 Court shall report the disposition of all cases, as
32 required in Section 6-204 of the Illinois Vehicle Code.
33 However, information reported relative to these offenses
34 shall be privileged and available only to the Secretary

1 of State, courts, and police officers.

2 (10) The administrator of a bonafide substance
3 abuse student assistance program with the permission of
4 the presiding judge of the juvenile court.

5 (11) Mental health professionals on behalf of the
6 Illinois Department of Corrections or the Department of
7 Human Services or prosecutors who are evaluating,
8 prosecuting, or investigating a potential or actual
9 petition brought under the Sexually Persons Commitment
10 Act relating to a person who is the subject of juvenile
11 court records or the respondent to a petition brought
12 under the Sexually Violent Persons Commitment Act, who is
13 the subject of juvenile court records sought. Any
14 records and any information obtained from those records
15 under this paragraph (11) may be used only in sexually
16 violent persons commitment proceedings.

17 (B) A minor who is the victim in a juvenile proceeding
18 shall be provided the same confidentiality regarding
19 disclosure of identity as the minor who is the subject of
20 record.

21 (C) Except as otherwise provided in this subsection (C),
22 juvenile court records shall not be made available to the
23 general public but may be inspected by representatives of
24 agencies, associations and news media or other properly
25 interested persons by general or special order of the court.
26 The State's Attorney, the minor, his parents, guardian and
27 counsel shall at all times have the right to examine court
28 files and records.

29 (1) The court shall allow the general public to
30 have access to the name, address, and offense of a minor
31 who is adjudicated a delinquent minor under this Act
32 under either of the following circumstances:

33 (A) The adjudication of delinquency was based
34 upon the minor's commission of first degree murder,

1 attempt to commit first degree murder, aggravated
2 criminal sexual assault, or criminal sexual assault;
3 or

4 (B) The court has made a finding that the
5 minor was at least 13 years of age at the time the
6 act was committed and the adjudication of
7 delinquency was based upon the minor's commission
8 of: (i) an act in furtherance of the commission of a
9 felony as a member of or on behalf of a criminal
10 street gang, (ii) an act involving the use of a
11 firearm in the commission of a felony, (iii) an act
12 that would be a Class X felony offense under or the
13 minor's second or subsequent Class 2 or greater
14 felony offense under the Cannabis Control Act if
15 committed by an adult, (iv) an act that would be a
16 second or subsequent offense under Section 402 of
17 the Illinois Controlled Substances Act if committed
18 by an adult, or (v) an act that would be an offense
19 under Section 401 of the Illinois Controlled
20 Substances Act if committed by an adult.

21 (2) The court shall allow the general public to
22 have access to the name, address, and offense of a minor
23 who is at least 13 years of age at the time the offense
24 is committed and who is convicted, in criminal
25 proceedings permitted or required under Section 5-4,
26 under either of the following circumstances:

27 (A) The minor has been convicted of first
28 degree murder, attempt to commit first degree
29 murder, aggravated criminal sexual assault, or
30 criminal sexual assault,

31 (B) The court has made a finding that the
32 minor was at least 13 years of age at the time the
33 offense was committed and the conviction was based
34 upon the minor's commission of: (i) an offense in

1 furtherance of the commission of a felony as a
2 member of or on behalf of a criminal street gang,
3 (ii) an offense involving the use of a firearm in
4 the commission of a felony, (iii) a Class X felony
5 offense under or a second or subsequent Class 2 or
6 greater felony offense under the Cannabis Control
7 Act, (iv) a second or subsequent offense under
8 Section 402 of the Illinois Controlled Substances
9 Act, or (v) an offense under Section 401 of the
10 Illinois Controlled Substances Act.

11 (D) Pending or following any adjudication of delinquency
12 for any offense defined in Sections 12-13 through 12-16 of
13 the Criminal Code of 1961, the victim of any such offense
14 shall receive the rights set out in Sections 4 and 6 of the
15 Bill of Rights for Victims and Witnesses of Violent Crime
16 Act; and the juvenile who is the subject of the adjudication,
17 notwithstanding any other provision of this Act, shall be
18 treated as an adult for the purpose of affording such rights
19 to the victim.

20 (E) Nothing in this Section shall affect the right of a
21 Civil Service Commission or appointing authority of any
22 state, county or municipality examining the character and
23 fitness of an applicant for employment with a law enforcement
24 agency, correctional institution, or fire department to
25 ascertain whether that applicant was ever adjudicated to be a
26 delinquent minor and, if so, to examine the records of
27 disposition or evidence which were made in proceedings under
28 this Act.

29 (F) Following any adjudication of delinquency for a
30 crime which would be a felony if committed by an adult, or
31 following any adjudication of delinquency for a violation of
32 Section 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of
33 1961, the State's Attorney shall ascertain whether the minor
34 respondent is enrolled in school and, if so, shall provide a

1 copy of the dispositional order to the principal or chief
2 administrative officer of the school. Access to such
3 juvenile records shall be limited to the principal or chief
4 administrative officer of the school and any guidance
5 counselor designated by him.

6 (G) Nothing contained in this Act prevents the sharing
7 or disclosure of information or records relating or
8 pertaining to juveniles subject to the provisions of the
9 Serious Habitual Offender Comprehensive Action Program when
10 that information is used to assist in the early
11 identification and treatment of habitual juvenile offenders.

12 (H) When a Court hearing a proceeding under Article II
13 of this Act becomes aware that an earlier proceeding under
14 Article II had been heard in a different county, that Court
15 shall request, and the Court in which the earlier proceedings
16 were initiated shall transmit, an authenticated copy of the
17 Court record, including all documents, petitions, and orders
18 filed therein and the minute orders, transcript of
19 proceedings, and docket entries of the Court.

20 (I) The Clerk of the Circuit Court shall report to the
21 Department of State Police, in the form and manner required
22 by the Department of State Police, the final disposition of
23 each minor who has been arrested or taken into custody before
24 his or her 18th ~~17th~~ birthday for those offenses required to
25 be reported under Section 5 of the Criminal Identification
26 Act. Information reported to the Department under this
27 Section may be maintained with records that the Department
28 files under Section 2.1 of the Criminal Identification Act.

29 (Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00,
30 92-415, eff. 8-17-01.)

31 (705 ILCS 405/1-9) (from Ch. 37, par. 801-9)
32 Sec. 1-9. Expungement of law enforcement and juvenile
33 court records.

1 (1) Expungement of law enforcement and juvenile court
2 delinquency records shall be governed by Section 5-915.

3 (2) This subsection (2) applies to expungement of law
4 enforcement and juvenile court records other than delinquency
5 proceedings. Whenever any person has attained the age of 18
6 ~~17~~ or whenever all juvenile court proceedings relating to
7 that person have been terminated, whichever is later, the
8 person may petition the court to expunge law enforcement
9 records relating to incidents occurring before his 18th ~~17th~~
10 birthday or his juvenile court records, or both, if the
11 minor was placed under supervision pursuant to Sections 2-20,
12 3-21, or 4-18, and such order of supervision has since been
13 successfully terminated.

14 (3) The chief judge of the circuit in which an arrest
15 was made or a charge was brought or any judge of that circuit
16 designated by the chief judge may, upon verified petition of
17 a person who is the subject of an arrest or a juvenile court
18 proceeding pursuant to subsection (2) of this Section, order
19 the law enforcement records or juvenile court records, or
20 both, to be expunged from the official records of the
21 arresting authority and the clerk of the circuit court.
22 Notice of the petition shall be served upon the State's
23 Attorney and upon the arresting authority which is the
24 subject of the petition for expungement.

25 (Source: P.A. 90-590, eff. 1-1-99.)

26 (705 ILCS 405/2-10) (from Ch. 37, par. 802-10)

27 Sec. 2-10. Temporary custody hearing. At the appearance
28 of the minor before the court at the temporary custody
29 hearing, all witnesses present shall be examined before the
30 court in relation to any matter connected with the
31 allegations made in the petition.

32 (1) If the court finds that there is not probable cause
33 to believe that the minor is abused, neglected or dependent

1 it shall release the minor and dismiss the petition.

2 (2) If the court finds that there is probable cause to
3 believe that the minor is abused, neglected or dependent, the
4 court shall state in writing the factual basis supporting its
5 finding and the minor, his or her parent, guardian, custodian
6 and other persons able to give relevant testimony shall be
7 examined before the court. The Department of Children and
8 Family Services shall give testimony concerning indicated
9 reports of abuse and neglect, of which they are aware of
10 through the central registry, involving the minor's parent,
11 guardian or custodian. After such testimony, the court may,
12 consistent with the health, safety and best interests of the
13 minor, enter an order that the minor shall be released upon
14 the request of parent, guardian or custodian if the parent,
15 guardian or custodian appears to take custody. Custodian
16 shall include any agency of the State which has been given
17 custody or wardship of the child. If it is consistent with
18 the health, safety and best interests of the minor, the court
19 may also prescribe shelter care and order that the minor be
20 kept in a suitable place designated by the court or in a
21 shelter care facility designated by the Department of
22 Children and Family Services or a licensed child welfare
23 agency; however, a minor charged with a criminal offense
24 under the Criminal Code of 1961 or adjudicated delinquent
25 shall not be placed in the custody of or committed to the
26 Department of Children and Family Services by any court,
27 except a minor less than 13 years of age and committed to the
28 Department of Children and Family Services under Section
29 5-710 of this Act or a minor for whom an independent basis of
30 abuse, neglect, or dependency exists, which must be defined
31 by departmental rule. In placing the minor, the Department or
32 other agency shall, to the extent compatible with the court's
33 order, comply with Section 7 of the Children and Family
34 Services Act. In determining the health, safety and best

1 interests of the minor to prescribe shelter care, the court
2 must find that it is a matter of immediate and urgent
3 necessity for the safety and protection of the minor or of
4 the person or property of another that the minor be placed in
5 a shelter care facility or that he or she is likely to flee
6 the jurisdiction of the court, and must further find that
7 reasonable efforts have been made or that, consistent with
8 the health, safety and best interests of the minor, no
9 efforts reasonably can be made to prevent or eliminate the
10 necessity of removal of the minor from his or her home. The
11 court shall require documentation from the Department of
12 Children and Family Services as to the reasonable efforts
13 that were made to prevent or eliminate the necessity of
14 removal of the minor from his or her home or the reasons why
15 no efforts reasonably could be made to prevent or eliminate
16 the necessity of removal. When a minor is placed in the home
17 of a relative, the Department of Children and Family Services
18 shall complete a preliminary background review of the members
19 of the minor's custodian's household in accordance with
20 Section 4.3 of the Child Care Act of 1969 within 90 days of
21 that placement. If the minor is ordered placed in a shelter
22 care facility of the Department of Children and Family
23 Services or a licensed child welfare agency, the court shall,
24 upon request of the appropriate Department or other agency,
25 appoint the Department of Children and Family Services
26 Guardianship Administrator or other appropriate agency
27 executive temporary custodian of the minor and the court may
28 enter such other orders related to the temporary custody as
29 it deems fit and proper, including the provision of services
30 to the minor or his family to ameliorate the causes
31 contributing to the finding of probable cause or to the
32 finding of the existence of immediate and urgent necessity.
33 Acceptance of services shall not be considered an admission
34 of any allegation in a petition made pursuant to this Act,

1 nor may a referral of services be considered as evidence in
2 any proceeding pursuant to this Act, except where the issue
3 is whether the Department has made reasonable efforts to
4 reunite the family. In making its findings that it is
5 consistent with the health, safety and best interests of the
6 minor to prescribe shelter care, the court shall state in
7 writing (i) the factual basis supporting its findings
8 concerning the immediate and urgent necessity for the
9 protection of the minor or of the person or property of
10 another and (ii) the factual basis supporting its findings
11 that reasonable efforts were made to prevent or eliminate the
12 removal of the minor from his or her home or that no efforts
13 reasonably could be made to prevent or eliminate the removal
14 of the minor from his or her home. The parents, guardian,
15 custodian, temporary custodian and minor shall each be
16 furnished a copy of such written findings. The temporary
17 custodian shall maintain a copy of the court order and
18 written findings in the case record for the child. The order
19 together with the court's findings of fact in support thereof
20 shall be entered of record in the court.

21 Once the court finds that it is a matter of immediate and
22 urgent necessity for the protection of the minor that the
23 minor be placed in a shelter care facility, the minor shall
24 not be returned to the parent, custodian or guardian until
25 the court finds that such placement is no longer necessary
26 for the protection of the minor.

27 If the child is placed in the temporary custody of the
28 Department of Children and Family Services for his or her
29 protection, the court shall admonish the parents, guardian,
30 custodian or responsible relative that the parents must
31 cooperate with the Department of Children and Family
32 Services, comply with the terms of the service plans, and
33 correct the conditions which require the child to be in care,
34 or risk termination of their parental rights.

1 (3) If prior to the shelter care hearing for a minor
2 described in Sections 2-3, 2-4, 3-3 and 4-3 the moving party
3 is unable to serve notice on the party respondent, the
4 shelter care hearing may proceed ex-parte. A shelter care
5 order from an ex-parte hearing shall be endorsed with the
6 date and hour of issuance and shall be filed with the clerk's
7 office and entered of record. The order shall expire after 10
8 days from the time it is issued unless before its expiration
9 it is renewed, at a hearing upon appearance of the party
10 respondent, or upon an affidavit of the moving party as to
11 all diligent efforts to notify the party respondent by notice
12 as herein prescribed. The notice prescribed shall be in
13 writing and shall be personally delivered to the minor or the
14 minor's attorney and to the last known address of the other
15 person or persons entitled to notice. The notice shall also
16 state the nature of the allegations, the nature of the order
17 sought by the State, including whether temporary custody is
18 sought, and the consequences of failure to appear and shall
19 contain a notice that the parties will not be entitled to
20 further written notices or publication notices of proceedings
21 in this case, including the filing of an amended petition or
22 a motion to terminate parental rights, except as required by
23 Supreme Court Rule 11; and shall explain the right of the
24 parties and the procedures to vacate or modify a shelter care
25 order as provided in this Section. The notice for a shelter
26 care hearing shall be substantially as follows:

27 NOTICE TO PARENTS AND CHILDREN
28 OF SHELTER CARE HEARING

29 On at, before the
30 Honorable, (address:),
31 the State of Illinois will present evidence (1) that
32 (name of child or children) are
33 abused, neglected or dependent for the following reasons:
34 and (2)

1 that there is "immediate and urgent necessity" to remove
2 the child or children from the responsible relative.

3 YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN
4 PLACEMENT of the child or children in foster care until a
5 trial can be held. A trial may not be held for up to 90
6 days. You will not be entitled to further notices of
7 proceedings in this case, including the filing of an
8 amended petition or a motion to terminate parental
9 rights.

10 At the shelter care hearing, parents have the
11 following rights:

- 12 1. To ask the court to appoint a lawyer if
13 they cannot afford one.
- 14 2. To ask the court to continue the hearing to
15 allow them time to prepare.
- 16 3. To present evidence concerning:
 - 17 a. Whether or not the child or children
18 were abused, neglected or dependent.
 - 19 b. Whether or not there is "immediate and
20 urgent necessity" to remove the child from home
21 (including: their ability to care for the
22 child, conditions in the home, alternative
23 means of protecting the child other than
24 removal).
 - 25 c. The best interests of the child.
- 26 4. To cross examine the State's witnesses.

27 The Notice for rehearings shall be substantially as
28 follows:

29 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
30 TO REHEARING ON TEMPORARY CUSTODY

31 If you were not present at and did not have adequate
32 notice of the Shelter Care Hearing at which temporary
33 custody of was awarded to
34, you have the right to request a full

1 rehearing on whether the State should have temporary
2 custody of To request this rehearing,
3 you must file with the Clerk of the Juvenile Court
4 (address):, in person or by
5 mailing a statement (affidavit) setting forth the
6 following:

- 7 1. That you were not present at the shelter
- 8 care hearing.
- 9 2. That you did not get adequate notice
- 10 (explaining how the notice was inadequate).
- 11 3. Your signature.
- 12 4. Signature must be notarized.

13 The rehearing should be scheduled within 48 hours of
14 your filing this affidavit.

15 At the rehearing, your rights are the same as at the
16 initial shelter care hearing. The enclosed notice
17 explains those rights.

18 At the Shelter Care Hearing, children have the
19 following rights:

- 20 1. To have a guardian ad litem appointed.
- 21 2. To be declared competent as a witness and
- 22 to present testimony concerning:
 - 23 a. Whether they are abused, neglected or
 - 24 dependent.
 - 25 b. Whether there is "immediate and urgent
 - 26 necessity" to be removed from home.
 - 27 c. Their best interests.
- 28 3. To cross examine witnesses for other
- 29 parties.
- 30 4. To obtain an explanation of any proceedings
- 31 and orders of the court.

32 (4) If the parent, guardian, legal custodian,
33 responsible relative, minor age 8 or over, or counsel of the
34 minor did not have actual notice of or was not present at the

1 shelter care hearing, he or she may file an affidavit setting
2 forth these facts, and the clerk shall set the matter for
3 rehearing not later than 48 hours, excluding Sundays and
4 legal holidays, after the filing of the affidavit. At the
5 rehearing, the court shall proceed in the same manner as upon
6 the original hearing.

7 (5) Only when there is reasonable cause to believe that
8 the minor taken into custody is a person described in
9 subsection (3) of Section 5-105 may the minor be kept or
10 detained in a detention home or county or municipal jail.
11 This Section shall in no way be construed to limit subsection
12 (6).

13 (6) No minor under 16 years of age may be confined in a
14 jail or place ordinarily used for the confinement of
15 prisoners in a police station. Minors under 18 17 years of
16 age must be kept separate from confined adults and may not at
17 any time be kept in the same cell, room, or yard with adults
18 confined pursuant to the criminal law.

19 (7) If the minor is not brought before a judicial
20 officer within the time period as specified in Section 2-9,
21 the minor must immediately be released from custody.

22 (8) If neither the parent, guardian or custodian appears
23 within 24 hours to take custody of a minor released upon
24 request pursuant to subsection (2) of this Section, then the
25 clerk of the court shall set the matter for rehearing not
26 later than 7 days after the original order and shall issue a
27 summons directed to the parent, guardian or custodian to
28 appear. At the same time the probation department shall
29 prepare a report on the minor. If a parent, guardian or
30 custodian does not appear at such rehearing, the judge may
31 enter an order prescribing that the minor be kept in a
32 suitable place designated by the Department of Children and
33 Family Services or a licensed child welfare agency.

34 (9) Notwithstanding any other provision of this Section

1 any interested party, including the State, the temporary
2 custodian, an agency providing services to the minor or
3 family under a service plan pursuant to Section 8.2 of the
4 Abused and Neglected Child Reporting Act, foster parent, or
5 any of their representatives, on notice to all parties
6 entitled to notice, may file a motion that it is in the best
7 interests of the minor to modify or vacate a temporary
8 custody order on any of the following grounds:

9 (a) It is no longer a matter of immediate and
10 urgent necessity that the minor remain in shelter care;
11 or

12 (b) There is a material change in the circumstances
13 of the natural family from which the minor was removed
14 and the child can be cared for at home without
15 endangering the child's health or safety; or

16 (c) A person not a party to the alleged abuse,
17 neglect or dependency, including a parent, relative or
18 legal guardian, is capable of assuming temporary custody
19 of the minor; or

20 (d) Services provided by the Department of Children
21 and Family Services or a child welfare agency or other
22 service provider have been successful in eliminating the
23 need for temporary custody and the child can be cared for
24 at home without endangering the child's health or safety.

25 In ruling on the motion, the court shall determine
26 whether it is consistent with the health, safety and best
27 interests of the minor to modify or vacate a temporary
28 custody order.

29 The clerk shall set the matter for hearing not later than
30 14 days after such motion is filed. In the event that the
31 court modifies or vacates a temporary custody order but does
32 not vacate its finding of probable cause, the court may order
33 that appropriate services be continued or initiated in behalf
34 of the minor and his or her family.

1 (10) When the court finds or has found that there is
2 probable cause to believe a minor is an abused minor as
3 described in subsection (2) of Section 2-3 and that there is
4 an immediate and urgent necessity for the abused minor to be
5 placed in shelter care, immediate and urgent necessity shall
6 be presumed for any other minor residing in the same
7 household as the abused minor provided:

8 (a) Such other minor is the subject of an abuse or
9 neglect petition pending before the court; and

10 (b) A party to the petition is seeking shelter care
11 for such other minor.

12 Once the presumption of immediate and urgent necessity
13 has been raised, the burden of demonstrating the lack of
14 immediate and urgent necessity shall be on any party that is
15 opposing shelter care for the other minor.

16 (Source: P.A. 89-21, eff. 7-1-95; 89-422; 89-582, eff.
17 1-1-97; 89-626, eff. 8-9-96; 90-28, eff. 1-1-98; 90-87, eff.
18 9-1-97; 90-590, eff. 1-1-99; 90-655, eff. 7-30-98.)

19 (705 ILCS 405/3-12) (from Ch. 37, par. 803-12)

20 Sec. 3-12. Shelter care hearing. At the appearance of
21 the minor before the court at the shelter care hearing, all
22 witnesses present shall be examined before the court in
23 relation to any matter connected with the allegations made in
24 the petition.

25 (1) If the court finds that there is not probable cause
26 to believe that the minor is a person requiring authoritative
27 intervention, it shall release the minor and dismiss the
28 petition.

29 (2) If the court finds that there is probable cause to
30 believe that the minor is a person requiring authoritative
31 intervention, the minor, his or her parent, guardian,
32 custodian and other persons able to give relevant testimony
33 shall be examined before the court. After such testimony, the

1 court may enter an order that the minor shall be released
2 upon the request of a parent, guardian or custodian if the
3 parent, guardian or custodian appears to take custody.
4 Custodian shall include any agency of the State which has
5 been given custody or wardship of the child. The Court shall
6 require documentation by representatives of the Department of
7 Children and Family Services or the probation department as
8 to the reasonable efforts that were made to prevent or
9 eliminate the necessity of removal of the minor from his or
10 her home, and shall consider the testimony of any person as
11 to those reasonable efforts. If the court finds that it is a
12 matter of immediate and urgent necessity for the protection
13 of the minor or of the person or property of another that the
14 minor be placed in a shelter care facility, or that he or she
15 is likely to flee the jurisdiction of the court, and further
16 finds that reasonable efforts have been made or good cause
17 has been shown why reasonable efforts cannot prevent or
18 eliminate the necessity of removal of the minor from his or
19 her home, the court may prescribe shelter care and order that
20 the minor be kept in a suitable place designated by the court
21 or in a shelter care facility designated by the Department of
22 Children and Family Services or a licensed child welfare
23 agency; otherwise it shall release the minor from custody. If
24 the court prescribes shelter care, then in placing the minor,
25 the Department or other agency shall, to the extent
26 compatible with the court's order, comply with Section 7 of
27 the Children and Family Services Act. If the minor is ordered
28 placed in a shelter care facility of the Department of
29 Children and Family Services or a licensed child welfare
30 agency, the court shall, upon request of the Department or
31 other agency, appoint the Department of Children and Family
32 Services Guardianship Administrator or other appropriate
33 agency executive temporary custodian of the minor and the
34 court may enter such other orders related to the temporary

1 custody as it deems fit and proper, including the provision
2 of services to the minor or his family to ameliorate the
3 causes contributing to the finding of probable cause or to
4 the finding of the existence of immediate and urgent
5 necessity. Acceptance of services shall not be considered an
6 admission of any allegation in a petition made pursuant to
7 this Act, nor may a referral of services be considered as
8 evidence in any proceeding pursuant to this Act, except where
9 the issue is whether the Department has made reasonable
10 efforts to reunite the family. In making its findings that
11 reasonable efforts have been made or that good cause has been
12 shown why reasonable efforts cannot prevent or eliminate the
13 necessity of removal of the minor from his or her home, the
14 court shall state in writing its findings concerning the
15 nature of the services that were offered or the efforts that
16 were made to prevent removal of the child and the apparent
17 reasons that such services or efforts could not prevent the
18 need for removal. The parents, guardian, custodian,
19 temporary custodian and minor shall each be furnished a copy
20 of such written findings. The temporary custodian shall
21 maintain a copy of the court order and written findings in
22 the case record for the child.

23 The order together with the court's findings of fact and
24 support thereof shall be entered of record in the court.

25 Once the court finds that it is a matter of immediate and
26 urgent necessity for the protection of the minor that the
27 minor be placed in a shelter care facility, the minor shall
28 not be returned to the parent, custodian or guardian until
29 the court finds that such placement is no longer necessary
30 for the protection of the minor.

31 (3) If prior to the shelter care hearing for a minor
32 described in Sections 2-3, 2-4, 3-3 and 4-3 the petitioner is
33 unable to serve notice on the party respondent, the shelter
34 care hearing may proceed ex-parte. A shelter care order from

1 an ex-parte hearing shall be endorsed with the date and hour
2 of issuance and shall be filed with the clerk's office and
3 entered of record. The order shall expire after 10 days from
4 the time it is issued unless before its expiration it is
5 renewed, at a hearing upon appearance of the party
6 respondent, or upon an affidavit of the moving party as to
7 all diligent efforts to notify the party respondent by notice
8 as herein prescribed. The notice prescribed shall be in
9 writing and shall be personally delivered to the minor or the
10 minor's attorney and to the last known address of the other
11 person or persons entitled to notice. The notice shall also
12 state the nature of the allegations, the nature of the order
13 sought by the State, including whether temporary custody is
14 sought, and the consequences of failure to appear; and shall
15 explain the right of the parties and the procedures to vacate
16 or modify a shelter care order as provided in this Section.
17 The notice for a shelter care hearing shall be substantially
18 as follows:

19 NOTICE TO PARENTS AND CHILDREN OF SHELTER CARE HEARING

20 On at, before the Honorable
21, (address:), the State of
22 Illinois will present evidence (1) that (name of child or
23 children) are abused, neglected or
24 dependent for the following reasons:

25
26 and (2) that there is "immediate and urgent necessity" to
27 remove the child or children from the responsible relative.

28 YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN
29 PLACEMENT of the child or children in foster care until a
30 trial can be held. A trial may not be held for up to 90
31 days.

32 At the shelter care hearing, parents have the following
33 rights:

- 34 1. To ask the court to appoint a lawyer if they

1 cannot afford one.

2 2. To ask the court to continue the hearing to
3 allow them time to prepare.

4 3. To present evidence concerning:

5 a. Whether or not the child or children were
6 abused, neglected or dependent.

7 b. Whether or not there is "immediate and
8 urgent necessity" to remove the child from home
9 (including: their ability to care for the child,
10 conditions in the home, alternative means of
11 protecting the child other than removal).

12 c. The best interests of the child.

13 4. To cross examine the State's witnesses.

14 The Notice for rehearings shall be substantially as
15 follows:

16 NOTICE OF PARENT'S AND CHILDREN'S RIGHTS
17 TO REHEARING ON TEMPORARY CUSTODY

18 If you were not present at and did not have adequate
19 notice of the Shelter Care Hearing at which temporary custody
20 of was awarded to, you have
21 the right to request a full rehearing on whether the State
22 should have temporary custody of To
23 request this rehearing, you must file with the Clerk of the
24 Juvenile Court (address):, in person
25 or by mailing a statement (affidavit) setting forth the
26 following:

27 1. That you were not present at the shelter care
28 hearing.

29 2. That you did not get adequate notice (explaining
30 how the notice was inadequate).

31 3. Your signature.

32 4. Signature must be notarized.

33 The rehearing should be scheduled within one day of your
34 filing this affidavit.

1 At the rehearing, your rights are the same as at the
2 initial shelter care hearing. The enclosed notice explains
3 those rights.

4 At the Shelter Care Hearing, children have the following
5 rights:

- 6 1. To have a guardian ad litem appointed.
- 7 2. To be declared competent as a witness and to
8 present testimony concerning:
 - 9 a. Whether they are abused, neglected or
10 dependent.
 - 11 b. Whether there is "immediate and urgent
12 necessity" to be removed from home.
 - 13 c. Their best interests.
- 14 3. To cross examine witnesses for other parties.
- 15 4. To obtain an explanation of any proceedings and
16 orders of the court.

17 (4) If the parent, guardian, legal custodian,
18 responsible relative, or counsel of the minor did not have
19 actual notice of or was not present at the shelter care
20 hearing, he or she may file an affidavit setting forth these
21 facts, and the clerk shall set the matter for rehearing not
22 later than 48 hours, excluding Sundays and legal holidays,
23 after the filing of the affidavit. At the rehearing, the
24 court shall proceed in the same manner as upon the original
25 hearing.

26 (5) Only when there is reasonable cause to believe that
27 the minor taken into custody is a person described in
28 subsection (3) of Section 5-105 may the minor be kept or
29 detained in a detention home or county or municipal jail.
30 This Section shall in no way be construed to limit subsection
31 (6).

32 (6) No minor under 16 years of age may be confined in a
33 jail or place ordinarily used for the confinement of
34 prisoners in a police station. Minors under 18 17 years of

1 age must be kept separate from confined adults and may not at
2 any time be kept in the same cell, room, or yard with adults
3 confined pursuant to the criminal law.

4 (7) If the minor is not brought before a judicial
5 officer within the time period specified in Section 3-11, the
6 minor must immediately be released from custody.

7 (8) If neither the parent, guardian or custodian appears
8 within 24 hours to take custody of a minor released upon
9 request pursuant to subsection (2) of this Section, then the
10 clerk of the court shall set the matter for rehearing not
11 later than 7 days after the original order and shall issue a
12 summons directed to the parent, guardian or custodian to
13 appear. At the same time the probation department shall
14 prepare a report on the minor. If a parent, guardian or
15 custodian does not appear at such rehearing, the judge may
16 enter an order prescribing that the minor be kept in a
17 suitable place designated by the Department of Children and
18 Family Services or a licensed child welfare agency.

19 (9) Notwithstanding any other provision of this Section,
20 any interested party, including the State, the temporary
21 custodian, an agency providing services to the minor or
22 family under a service plan pursuant to Section 8.2 of the
23 Abused and Neglected Child Reporting Act, foster parent, or
24 any of their representatives, on notice to all parties
25 entitled to notice, may file a motion to modify or vacate a
26 temporary custody order on any of the following grounds:

27 (a) It is no longer a matter of immediate and
28 urgent necessity that the minor remain in shelter care;
29 or

30 (b) There is a material change in the circumstances
31 of the natural family from which the minor was removed;
32 or

33 (c) A person, including a parent, relative or legal
34 guardian, is capable of assuming temporary custody of the

1 minor; or

2 (d) Services provided by the Department of Children
3 and Family Services or a child welfare agency or other
4 service provider have been successful in eliminating the
5 need for temporary custody.

6 The clerk shall set the matter for hearing not later than
7 14 days after such motion is filed. In the event that the
8 court modifies or vacates a temporary custody order but does
9 not vacate its finding of probable cause, the court may order
10 that appropriate services be continued or initiated in behalf
11 of the minor and his or her family.

12 (Source: P.A. 90-590, eff. 1-1-99.)

13 (705 ILCS 405/4-9) (from Ch. 37, par. 804-9)

14 Sec. 4-9. Shelter care hearing. At the appearance of
15 the minor before the court at the shelter care hearing, all
16 witnesses present shall be examined before the court in
17 relation to any matter connected with the allegations made in
18 the petition.

19 (1) If the court finds that there is not probable cause
20 to believe that the minor is addicted, it shall release the
21 minor and dismiss the petition.

22 (2) If the court finds that there is probable cause to
23 believe that the minor is addicted, the minor, his or her
24 parent, guardian, custodian and other persons able to give
25 relevant testimony shall be examined before the court. After
26 such testimony, the court may enter an order that the minor
27 shall be released upon the request of a parent, guardian or
28 custodian if the parent, guardian or custodian appears to
29 take custody and agrees to abide by a court order which
30 requires the minor and his or her parent, guardian, or legal
31 custodian to complete an evaluation by an entity licensed by
32 the Department of Human Services, as the successor to the
33 Department of Alcoholism and Substance Abuse, and complete

1 any treatment recommendations indicated by the assessment.
2 Custodian shall include any agency of the State which has
3 been given custody or wardship of the child.

4 The Court shall require documentation by representatives
5 of the Department of Children and Family Services or the
6 probation department as to the reasonable efforts that were
7 made to prevent or eliminate the necessity of removal of the
8 minor from his or her home, and shall consider the testimony
9 of any person as to those reasonable efforts. If the court
10 finds that it is a matter of immediate and urgent necessity
11 for the protection of the minor or of the person or property
12 of another that the minor be or placed in a shelter care
13 facility or that he or she is likely to flee the jurisdiction
14 of the court, and further, finds that reasonable efforts have
15 been made or good cause has been shown why reasonable efforts
16 cannot prevent or eliminate the necessity of removal of the
17 minor from his or her home, the court may prescribe shelter
18 care and order that the minor be kept in a suitable place
19 designated by the court or in a shelter care facility
20 designated by the Department of Children and Family Services
21 or a licensed child welfare agency, or in a facility or
22 program licensed by the Department of Human Services for
23 shelter and treatment services; otherwise it shall release
24 the minor from custody. If the court prescribes shelter
25 care, then in placing the minor, the Department or other
26 agency shall, to the extent compatible with the court's
27 order, comply with Section 7 of the Children and Family
28 Services Act. If the minor is ordered placed in a shelter
29 care facility of the Department of Children and Family
30 Services or a licensed child welfare agency, or in a facility
31 or program licensed by the Department of Human Services for
32 shelter and treatment services, the court shall, upon request
33 of the appropriate Department or other agency, appoint the
34 Department of Children and Family Services Guardianship

1 Administrator or other appropriate agency executive temporary
2 custodian of the minor and the court may enter such other
3 orders related to the temporary custody as it deems fit and
4 proper, including the provision of services to the minor or
5 his family to ameliorate the causes contributing to the
6 finding of probable cause or to the finding of the existence
7 of immediate and urgent necessity. Acceptance of services
8 shall not be considered an admission of any allegation in a
9 petition made pursuant to this Act, nor may a referral of
10 services be considered as evidence in any proceeding pursuant
11 to this Act, except where the issue is whether the Department
12 has made reasonable efforts to reunite the family. In making
13 its findings that reasonable efforts have been made or that
14 good cause has been shown why reasonable efforts cannot
15 prevent or eliminate the necessity of removal of the minor
16 from his or her home, the court shall state in writing its
17 findings concerning the nature of the services that were
18 offered or the efforts that were made to prevent removal of
19 the child and the apparent reasons that such services or
20 efforts could not prevent the need for removal. The parents,
21 guardian, custodian, temporary custodian and minor shall each
22 be furnished a copy of such written findings. The temporary
23 custodian shall maintain a copy of the court order and
24 written findings in the case record for the child. The order
25 together with the court's findings of fact in support thereof
26 shall be entered of record in the court.

27 Once the court finds that it is a matter of immediate and
28 urgent necessity for the protection of the minor that the
29 minor be placed in a shelter care facility, the minor shall
30 not be returned to the parent, custodian or guardian until
31 the court finds that such placement is no longer necessary
32 for the protection of the minor.

33 (3) If neither the parent, guardian, legal custodian,
34 responsible relative nor counsel of the minor has had actual

1 notice of or is present at the shelter care hearing, he or
2 she may file his or her affidavit setting forth these facts,
3 and the clerk shall set the matter for rehearing not later
4 than 24 hours, excluding Sundays and legal holidays, after
5 the filing of the affidavit. At the rehearing, the court
6 shall proceed in the same manner as upon the original
7 hearing.

8 (4) If the minor is not brought before a judicial
9 officer within the time period as specified in Section 4-8,
10 the minor must immediately be released from custody.

11 (5) Only when there is reasonable cause to believe that
12 the minor taken into custody is a person described in
13 subsection (3) of Section 5-105 may the minor be kept or
14 detained in a detention home or county or municipal jail.
15 This Section shall in no way be construed to limit subsection
16 (6).

17 (6) No minor under 16 years of age may be confined in a
18 jail or place ordinarily used for the confinement of
19 prisoners in a police station. Minors under 18 17 years of
20 age must be kept separate from confined adults and may not at
21 any time be kept in the same cell, room or yard with adults
22 confined pursuant to the criminal law.

23 (7) If neither the parent, guardian or custodian appears
24 within 24 hours to take custody of a minor released upon
25 request pursuant to subsection (2) of this Section, then the
26 clerk of the court shall set the matter for rehearing not
27 later than 7 days after the original order and shall issue a
28 summons directed to the parent, guardian or custodian to
29 appear. At the same time the probation department shall
30 prepare a report on the minor. If a parent, guardian or
31 custodian does not appear at such rehearing, the judge may
32 enter an order prescribing that the minor be kept in a
33 suitable place designated by the Department of Children and
34 Family Services or a licensed child welfare agency.

1 (8) Any interested party, including the State, the
2 temporary custodian, an agency providing services to the
3 minor or family under a service plan pursuant to Section 8.2
4 of the Abused and Neglected Child Reporting Act, foster
5 parent, or any of their representatives, may file a motion to
6 modify or vacate a temporary custody order on any of the
7 following grounds:

8 (a) It is no longer a matter of immediate and
9 urgent necessity that the minor remain in shelter care;
10 or

11 (b) There is a material change in the circumstances
12 of the natural family from which the minor was removed;
13 or

14 (c) A person, including a parent, relative or legal
15 guardian, is capable of assuming temporary custody of the
16 minor; or

17 (d) Services provided by the Department of Children
18 and Family Services or a child welfare agency or other
19 service provider have been successful in eliminating the
20 need for temporary custody.

21 The clerk shall set the matter for hearing not later than
22 14 days after such motion is filed. In the event that the
23 court modifies or vacates a temporary custody order but does
24 not vacate its finding of probable cause, the court may order
25 that appropriate services be continued or initiated in behalf
26 of the minor and his or her family.

27 (Source: P.A. 89-422; 89-507, eff. 7-1-97; 90-590, eff.
28 1-1-99.)

29 (705 ILCS 405/5-105)

30 Sec. 5-105. Definitions. As used in this Article:

31 (1) "Court" means the circuit court in a session or
32 division assigned to hear proceedings under this Act, and
33 includes the term Juvenile Court.

1 (2) "Community service" means uncompensated labor for a
2 community service agency as hereinafter defined.

3 (2.5) "Community service agency" means a not-for-profit
4 organization, community organization, church, charitable
5 organization, individual, public office, or other public body
6 whose purpose is to enhance the physical or mental health of
7 a delinquent minor or to rehabilitate the minor, or to
8 improve the environmental quality or social welfare of the
9 community which agrees to accept community service from
10 juvenile delinquents and to report on the progress of the
11 community service to the State's Attorney pursuant to an
12 agreement or to the court or to any agency designated by the
13 court or to the authorized diversion program that has
14 referred the delinquent minor for community service.

15 (3) "Delinquent minor" means any minor who prior to his
16 or her 18th ~~17th~~ birthday has violated or attempted to
17 violate, regardless of where the act occurred, any federal or
18 State law, county or municipal ordinance.

19 (4) "Department" means the Department of Human Services
20 unless specifically referenced as another department.

21 (5) "Detention" means the temporary care of a minor who
22 is alleged to be or has been adjudicated delinquent and who
23 requires secure custody for the minor's own protection or the
24 community's protection in a facility designed to physically
25 restrict the minor's movements, pending disposition by the
26 court or execution of an order of the court for placement or
27 commitment. Design features that physically restrict
28 movement include, but are not limited to, locked rooms and
29 the secure handcuffing of a minor to a rail or other
30 stationary object. In addition, "detention" includes the
31 court ordered care of an alleged or adjudicated delinquent
32 minor who requires secure custody pursuant to Section 5-125
33 of this Act.

34 (6) "Diversion" means the referral of a juvenile,

1 without court intervention, into a program that provides
2 services designed to educate the juvenile and develop a
3 productive and responsible approach to living in the
4 community.

5 (7) "Juvenile detention home" means a public facility
6 with specially trained staff that conforms to the county
7 juvenile detention standards promulgated by the Department of
8 Corrections.

9 (8) "Juvenile justice continuum" means a set of
10 delinquency prevention programs and services designed for the
11 purpose of preventing or reducing delinquent acts, including
12 criminal activity by youth gangs, as well as intervention,
13 rehabilitation, and prevention services targeted at minors
14 who have committed delinquent acts, and minors who have
15 previously been committed to residential treatment programs
16 for delinquents. The term includes
17 children-in-need-of-services and families-in-need-of-services
18 programs; aftercare and reentry services; substance abuse and
19 mental health programs; community service programs; community
20 service work programs; and alternative-dispute resolution
21 programs serving youth-at-risk of delinquency and their
22 families, whether offered or delivered by State or local
23 governmental entities, public or private for-profit or
24 not-for-profit organizations, or religious or charitable
25 organizations. This term would also encompass any program or
26 service consistent with the purpose of those programs and
27 services enumerated in this subsection.

28 (9) "Juvenile police officer" means a sworn police
29 officer who has completed a Basic Recruit Training Course,
30 has been assigned to the position of juvenile police officer
31 by his or her chief law enforcement officer and has completed
32 the necessary juvenile officers training as prescribed by the
33 Illinois Law Enforcement Training Standards Board, or in the
34 case of a State police officer, juvenile officer training

1 approved by the Director of State Police.

2 (10) "Minor" means a person under the age of 21 years
3 subject to this Act.

4 (11) "Non-secure custody" means confinement where the
5 minor is not physically restricted by being placed in a
6 locked cell or room, by being handcuffed to a rail or other
7 stationary object, or by other means. Non-secure custody may
8 include, but is not limited to, electronic monitoring, foster
9 home placement, home confinement, group home placement, or
10 physical restriction of movement or activity solely through
11 facility staff.

12 (12) "Public or community service" means uncompensated
13 labor for a not-for-profit organization or public body whose
14 purpose is to enhance physical or mental stability of the
15 offender, environmental quality or the social welfare and
16 which agrees to accept public or community service from
17 offenders and to report on the progress of the offender and
18 the public or community service to the court or to the
19 authorized diversion program that has referred the offender
20 for public or community service.

21 (13) "Sentencing hearing" means a hearing to determine
22 whether a minor should be adjudged a ward of the court, and
23 to determine what sentence should be imposed on the minor.
24 It is the intent of the General Assembly that the term
25 "sentencing hearing" replace the term "dispositional hearing"
26 and be synonymous with that definition as it was used in the
27 Juvenile Court Act of 1987.

28 (14) "Shelter" means the temporary care of a minor in
29 physically unrestricting facilities pending court disposition
30 or execution of court order for placement.

31 (15) "Site" means a not-for-profit organization, public
32 body, church, charitable organization, or individual agreeing
33 to accept community service from offenders and to report on
34 the progress of ordered or required public or community

1 service to the court or to the authorized diversion program
2 that has referred the offender for public or community
3 service.

4 (16) "Station adjustment" means the informal or formal
5 handling of an alleged offender by a juvenile police officer.

6 (17) "Trial" means a hearing to determine whether the
7 allegations of a petition under Section 5-520 that a minor is
8 delinquent are proved beyond a reasonable doubt. It is the
9 intent of the General Assembly that the term "trial" replace
10 the term "adjudicatory hearing" and be synonymous with that
11 definition as it was used in the Juvenile Court Act of 1987.
12 (Source: P.A. 90-590, eff. 1-1-99; 91-820, eff. 6-13-00.)

13 (705 ILCS 405/5-120)

14 Sec. 5-120. Exclusive jurisdiction. Proceedings may be
15 instituted under the provisions of this Article concerning
16 any minor who prior to the minor's 18th ~~17th~~ birthday has
17 violated or attempted to violate, regardless of where the act
18 occurred, any federal or State law or municipal or county
19 ordinance. Except as provided in Sections 5-125, 5-130,
20 5-805, and 5-810 of this Article, no minor who was under 18
21 ~~17~~ years of age at the time of the alleged offense may be
22 prosecuted under the criminal laws of this State.

23 (Source: P.A. 90-590, eff. 1-1-99.)

24 (705 ILCS 405/5-130)

25 Sec. 5-130. Excluded jurisdiction.

26 (1) (a) The definition of delinquent minor under Section
27 5-120 of this Article shall not apply to any minor who at the
28 time of an offense was at least 15 years of age and who is
29 charged with first degree murder, aggravated criminal sexual
30 assault, or aggravated battery with a firearm committed in a
31 school, on the real property comprising a school, within
32 1,000 feet of the real property comprising a school, at a

1 school related activity, or on, boarding, or departing from
2 any conveyance owned, leased, or contracted by a school or
3 school district to transport students to or from school or a
4 school related activity regardless of the time of day or time
5 of year that the offense was committed, ~~armed robbery when~~
6 ~~the armed robbery was committed with a firearm, or aggravated~~
7 ~~vehicular hijacking when the hijacking was committed with a~~
8 ~~firearm.~~

9 These charges and all other charges arising out of the
10 same incident shall be prosecuted under the criminal laws of
11 this State.

12 For purposes of this paragraph (a) of subsection (1):

13 "School" means a public or private elementary or
14 secondary school, community college, college, or university.

15 "School related activity" means any sporting, social,
16 academic or other activity for which students' attendance or
17 participation is sponsored, organized, or funded in whole or
18 in part by a school or school district.

19 (b) (i) If before trial or plea an information or
20 indictment is filed that does not charge an offense specified
21 in paragraph (a) of this subsection (1) the State's Attorney
22 may proceed on any lesser charge or charges, but only in
23 Juvenile Court under the provisions of this Article. The
24 State's Attorney may proceed under the Criminal Code of 1961
25 on a lesser charge if before trial the minor defendant
26 knowingly and with advice of counsel waives, in writing, his
27 or her right to have the matter proceed in Juvenile Court.

28 (ii) If before trial or plea an information or
29 indictment is filed that includes one or more charges
30 specified in paragraph (a) of this subsection (1) and
31 additional charges that are not specified in that paragraph,
32 all of the charges arising out of the same incident shall be
33 prosecuted under the Criminal Code of 1961.

34 (c) (i) If after trial or plea the minor is convicted of

1 any offense covered by paragraph (a) of this subsection (1),
2 then, in sentencing the minor, the court shall have available
3 any or all dispositions prescribed for that offense under
4 Chapter V of the Unified Code of Corrections.

5 (ii) If after trial or plea the court finds that the
6 minor committed an offense not covered by paragraph (a) of
7 this subsection (1), that finding shall not invalidate the
8 verdict or the prosecution of the minor under the criminal
9 laws of the State; however, unless the State requests a
10 hearing for the purpose of sentencing the minor under Chapter
11 V of the Unified Code of Corrections, the Court must proceed
12 under Sections 5-705 and 5-710 of this Article. To request a
13 hearing, the State must file a written motion within 10 days
14 following the entry of a finding or the return of a verdict.
15 Reasonable notice of the motion shall be given to the minor
16 or his or her counsel. If the motion is made by the State,
17 the court shall conduct a hearing to determine if the minor
18 should be sentenced under Chapter V of the Unified Code of
19 Corrections. In making its determination, the court shall
20 consider among other matters: (a) whether there is evidence
21 that the offense was committed in an aggressive and
22 premeditated manner; (b) the age of the minor; (c) the
23 previous history of the minor; (d) whether there are
24 facilities particularly available to the Juvenile Court or
25 the Department of Corrections, Juvenile Division, for the
26 treatment and rehabilitation of the minor; (e) whether the
27 security of the public requires sentencing under Chapter V of
28 the Unified Code of Corrections; and (f) whether the minor
29 possessed a deadly weapon when committing the offense. The
30 rules of evidence shall be the same as if at trial. If after
31 the hearing the court finds that the minor should be
32 sentenced under Chapter V of the Unified Code of Corrections,
33 then the court shall sentence the minor accordingly having
34 available to it any or all dispositions so prescribed.

1 (2) (Blank). (a) The definition of a delinquent minor
2 under Section 5-120 of this Article shall not apply to any
3 minor who at the time of the offense was at least 15 years of
4 age and who is charged with an offense under Section 401 of
5 the Illinois Controlled Substances Act, while in a school,
6 regardless of the time of day or the time of year, or any
7 conveyance owned, leased or contracted by a school to
8 transport students to or from school or a school-related
9 activity, or residential property owned, operated or managed
10 by a public housing agency or leased by a public housing
11 agency as part of a scattered site or mixed-income
12 development, on the real property comprising any school,
13 regardless of the time of day or the time of year, or
14 residential property owned, operated or managed by a public
15 housing agency or leased by a public housing agency as part
16 of a scattered site or mixed-income development, or on a
17 public way within 1,000 feet of the real property comprising
18 any school, regardless of the time of day or the time of
19 year, or residential property owned, operated or managed by a
20 public housing agency or leased by a public housing agency as
21 part of a scattered site or mixed-income development. School
22 is defined, for the purposes of this Section, as any public
23 or private elementary or secondary school, community college,
24 college, or university. These charges and all other charges
25 arising out of the same incident shall be prosecuted under
26 the criminal laws of this State.

27 (b) (i) If before trial or plea an information or
28 indictment is filed that does not charge an offense specified
29 in paragraph (a) of this subsection (2) the State's Attorney
30 may proceed on any lesser charge or charges, but only in
31 Juvenile Court under the provisions of this Article. The
32 State's Attorney may proceed under the criminal laws of this
33 State on a lesser charge if before trial the minor defendant
34 knowingly and with advice of counsel waives, in writing, his

1 or-her-right-to-have-the-matter-proceed-in-Juvenile-Court.

2 (ii)--If--before--trial--or--plea--an--information--or
3 indictment--is--filed--that--includes--one--or--more--charges
4 specified--in--paragraph--(a)--of--this--subsection--(2)--and
5 additional-charges-that-are-not-specified-in-that-paragraph,
6 all--of-the-charges-arising-out-of-the-same-incident-shall-be
7 prosecuted-under-the-criminal-laws-of-this-State.

8 (e)-(i)--If-after-trial-or-plea-the-minor-is-convicted-of
9 any-offense-covered-by-paragraph-(a)-of-this-subsection--(2),
10 then, in-sentencing-the-minor, the-court-shall-have-available
11 any--or--all--dispositions--prescribed-for-that-offense-under
12 Chapter-V-of-the-Unified-Code-of-Corrections.

13 (ii)--If-after-trial-or-plea-the--court--finds--that--the
14 minor--committed--an--offense-not-covered-by-paragraph-(a)-of
15 this-subsection-(2), that-finding-shall--not--invalidate--the
16 verdict--or--the--prosecution-of-the-minor-under-the-criminal
17 laws-of-the-State;--however,--unless--the--State--requests--a
18 hearing-for-the-purpose-of-sentencing-the-minor-under-Chapter
19 V--of-the-Unified-Code-of-Corrections, the-Court-must-proceed
20 under-Sections-5-705-and-5-710-of-this-Article.--To-request-a
21 hearing, the-State-must-file-a-written-motion-within-10--days
22 following--the-entry-of-a-finding-or-the-return-of-a-verdict.
23 Reasonable-notice-of-the-motion-shall-be-given-to--the--minor
24 or--his--or-her-counsel.--If-the-motion-is-made-by-the-State,
25 the-court-shall-conduct-a-hearing-to-determine-if--the--minor
26 should--be--sentenced--under-Chapter-V-of-the-Unified-Code-of
27 Corrections.--In-making-its-determination,--the--court--shall
28 consider--among--other-matters:--(a)-whether-there-is-evidence
29 that--the--offense--was--committed--in--an--aggressive--and
30 premeditated--manner;--(b)--the--age--of--the--minor;--(c)-the
31 previous--history--of--the--minor;--(d)--whether--there--are
32 facilities--particularly--available--to-the-Juvenile-Court-or
33 the-Department-of-Corrections,--Juvenile--Division,--for--the
34 treatment--and--rehabilitation--of-the-minor;--(e)-whether-the

1 security-of-the-public-requires-sentencing-under-Chapter-V-of
2 the-Unified-Code-of-Corrections;-and-(f)--whether--the--minor
3 possessed--a--deadly-weapon-when-committing-the-offense.--The
4 rules-of-evidence-shall-be-the-same-as-if-at-trial.--If-after
5 the--hearing--the--court--finds--that--the--minor--should--be
6 sentenced-under-Chapter-V-of-the-Unified-Code-of-Corrections,
7 then-the-court-shall-sentence-the--minor--accordingly--having
8 available-to-it-any-or-all-dispositions-so-prescribed.

9 (3) (Blank). (a)--The--definition--of--delinquent--minor
10 under--Section--5-120--of-this-Article-shall-not-apply-to-any
11 minor-who-at-the-time-of-the-offense-was-at-least-15-years-of
12 age-and-who-is-charged-with-a-violation-of-the-provisions--of
13 paragraph-(1),-(3),-(4),-or-(10)-of-subsection-(a)-of-Section
14 24-1-of-the-Criminal-Code-of-1961-while-in-school,-regardless
15 of--the--time--of--day--or--the--time-of-year,-or-on-the-real
16 property-comprising-any-school,-regardless-of-the-time-of-day
17 or-the-time-of-year.--School-is-defined,-for-purposes-of-this
18 Section-as-any-public--or--private--elementary--or--secondary
19 school,-community--college,-college,-or-university.--These
20 charges-and--all--other--charges--arising--out--of--the--same
21 incident--shall-be-prosecuted-under-the-criminal-laws-of-this
22 State.

23 (b)-(i)--If--before--trial--or--plea--an--information--or
24 indictment-is-filed-that-does-not-charge-an-offense-specified
25 in-paragraph-(a)-of-this-subsection-(3)-the-State's--Attorney
26 may--proceed--on--any--lesser--charge-or-charges,-but-only-in
27 Juvenile-Court-under-the-provisions--of--this--Article.--The
28 State's--Attorney-may-proceed-under-the-criminal-laws-of-this
29 State-on-a-lesser-charge-if-before-trial-the-minor--defendant
30 knowingly--and-with-advice-of-counsel-waives,-in-writing,-his
31 or-her-right-to-have-the-matter-proceed-in-Juvenile-Court.

32 (ii)--If--before--trial--or--plea--an--information--or
33 indictment--is--filed--that--includes--one--or--more--charges
34 specified--in--paragraph--(a)--of--this--subsection--(3)--and

1 additional--charges-that-are-not-specified-in-that-paragraph,
2 all-of-the-charges-arising-out-of-the-same-incident-shall--be
3 prosecuted-under-the-criminal-laws-of-this-State.

4 (e)-(i)--If-after-trial-or-plea-the-minor-is-convicted-of
5 any--offense-covered-by-paragraph-(a)-of-this-subsection-(3),
6 then,-in-sentencing-the-minor,-the-court-shall-have-available
7 any-or-all-dispositions-prescribed--for--that--offense--under
8 Chapter-V-of-the-Unified-Code-of-Corrections.

9 (ii)--If--after--trial--or--plea-the-court-finds-that-the
10 minor-committed-an-offense-not-covered-by--paragraph--(a)--of
11 this--subsection--(3),--that-finding-shall-not-invalidate-the
12 verdict-or-the-prosecution-of-the-minor--under--the--criminal
13 laws--of--the--State;--however,-unless-the-State-requests-a
14 hearing-for-the-purpose-of-sentencing-the-minor-under-Chapter
15 V-of-the-Unified-Code-of-Corrections,-the-Court-must--proceed
16 under-Sections-5-705-and-5-710-of-this-Article.--To-request-a
17 hearing,-the-State-must-file-a-written-motion-within-10-days
18 following-the-entry-of-a-finding-or-the-return-of-a--verdict.
19 Reasonable--notice--of-the-motion-shall-be-given-to-the-minor
20 or-his-or-her-counsel.--If-the-motion-is-made-by--the--State,
21 the--court--shall-conduct-a-hearing-to-determine-if-the-minor
22 should-be-sentenced-under-Chapter-V-of-the--Unified--Code--of
23 Corrections;--In--making--its-determination,-the-court-shall
24 consider-among-other-matters:- (a)-whether-there--is--evidence
25 that---the---offense--was--committed--in--an--aggressive--and
26 premeditated-manner;- (b)--the--age--of--the--minor;- (c)--the
27 previous--history--of--the--minor;- (d)--whether--there--are
28 facilities-particularly-available-to-the--Juvenile--Court--or
29 the--Department--of--Corrections,-Juvenile-Division,-for-the
30 treatment-and-rehabilitation-of-the-minor;- (e)--whether--the
31 security-of-the-public-requires-sentencing-under-Chapter-V-of
32 the--Unified--Code--of-Corrections;-and-(f)-whether-the-minor
33 possessed-a-deadly-weapon-when-committing-the--offense;--The
34 rules-of-evidence-shall-be-the-same-as-if-at-trial.--If-after

1 the hearing the court finds that the minor should be
2 sentenced under Chapter V of the Unified Code of Corrections,
3 then the court shall sentence the minor accordingly having
4 available to it any or all dispositions so prescribed.

5 (4) (Blank). (a) The definition of delinquent minor
6 under Section 5-120 of this Article shall not apply to any
7 minor who at the time of an offense was at least 13 years of
8 age and who is charged with first degree murder committed
9 during the course of either aggravated criminal sexual
10 assault, criminal sexual assault, or aggravated kidnaping.
11 However, this subsection (4) does not include a minor charged
12 with first degree murder based exclusively upon the
13 accountability provisions of the Criminal Code of 1961.

14 (b) (i) If before trial or plea an information or
15 indictment is filed that does not charge first degree murder
16 committed during the course of aggravated criminal sexual
17 assault, criminal sexual assault, or aggravated kidnaping,
18 the State's Attorney may proceed on any lesser charge or
19 charges, but only in Juvenile Court under the provisions of
20 this Article. The State's Attorney may proceed under the
21 criminal laws of this State on a lesser charge if before
22 trial the minor defendant knowingly and with advice of
23 counsel waives, in writing, his or her right to have the
24 matter proceed in Juvenile Court.

25 (ii) If before trial or plea an information or
26 indictment is filed that includes first degree murder
27 committed during the course of aggravated criminal sexual
28 assault, criminal sexual assault, or aggravated kidnaping,
29 and additional charges that are not specified in paragraph
30 (a) of this subsection, all of the charges arising out of the
31 same incident shall be prosecuted under the criminal laws of
32 this State.

33 (c) (i) If after trial or plea the minor is convicted of
34 first degree murder committed during the course of aggravated

1 eriminal--sexual--assault,--eriminal---sexual---assault,---or
2 aggravated--kidnaping,--in--sentencing--the--minor,--the--court
3 shall--have--available--any--or--all--dispositions--prescribed--for
4 that--offense--under--Chapter--V---of--the--Unified--Code--of
5 Corrections.

6 (ii)--If--the--minor--was--not--yet--15--years--of--age--at--the
7 time--of--the--offense,--and--if--after--trial--or--plea--the--court
8 finds--that--the--minor--committed--an--offense--other--than--first
9 degree--murder--committed--during--the---course---of---either
10 aggravated--eriminal--sexual--assault,--eriminal--sexual--assault,
11 or--aggravated--kidnapping,--the--finding--shall--not--invalidate
12 the--verdict--or--the--prosecution--of--the--minor--under--the
13 eriminal--laws--of--the--State;--however,--unless--the--State
14 requests--a--hearing--for--the--purpose--of--sentencing--the--minor
15 under--Chapter--V--of--the--Unified--Code--of--Corrections,--the--Court
16 must--proceed--under--Sections--5--705--and--5--710--of--this--Article.
17 To--request--a--hearing,--the--State--must--file--a--written--motion
18 within--10--days--following--the--entry--of--a--finding--or--the--return
19 of--a--verdict.--Reasonable--notice--of--the--motion--shall--be--given
20 to--the--minor--or--his--or--her--counsel.--If--the--motion--is--made--by
21 the--State,--the--court--shall--conduct--a--hearing--to--determine
22 whether--the--minor--should--be--sentenced--under--Chapter--V--of--the
23 Unified--Code--of--Corrections.--In--making--its--determination,
24 the--court--shall--consider--among--other--matters:---(a)--whether
25 there--is--evidence--that--the--offense--was--committed--in--an
26 aggressive--and--premeditated--manner;---(b)--the--age--of--the
27 minor;---(c)--the--previous--delinquent--history--of--the--minor;
28 (d)--whether--there--are--facilities--particularly--available--to
29 the--Juvenile--Court--or--the--Department--of--Corrections,--Juvenile
30 Division,--for--the--treatment--and--rehabilitation--of--the--minor;
31 (e)--whether--the--best--interest--of--the--minor--and--the--security
32 of--the--public--require--sentencing--under--Chapter--V--of--the
33 Unified--Code--of--Corrections;---and--(f)--whether--the--minor
34 possessed--a--deadly--weapon--when--committing--the--offense.--The

1 rules-of-evidence-shall-be-the-same-as-if-at-trial.--If-after
2 the--hearing--the--court--finds--that--the--minor--should--be
3 sentenced-under-Chapter-V-of-the-Unified-Code-of-Corrections,
4 then-the-court-shall-sentence-the--minor--accordingly--having
5 available-to-it-any-or-all-dispositions-so-prescribed.

6 (5) (a) The definition of delinquent minor under Section
7 5-120 of this Article shall not apply to any minor who is
8 charged with a violation of subsection (a) of Section 31-6 or
9 Section 32-10 of the Criminal Code of 1961 when the minor is
10 subject to prosecution under the criminal laws of this State
11 as a result of the application of the provisions of Section
12 5-125, or subsection (1) ~~or--(2)~~ of this Section. These
13 charges and all other charges arising out of the same
14 incident shall be prosecuted under the criminal laws of this
15 State.

16 (b) (i) If before trial or plea an information or
17 indictment is filed that does not charge an offense specified
18 in paragraph (a) of this subsection (5), the State's Attorney
19 may proceed on any lesser charge or charges, but only in
20 Juvenile Court under the provisions of this Article. The
21 State's Attorney may proceed under the criminal laws of this
22 State on a lesser charge if before trial the minor defendant
23 knowingly and with advice of counsel waives, in writing, his
24 or her right to have the matter proceed in Juvenile Court.

25 (ii) If before trial or plea an information or
26 indictment is filed that includes one or more charges
27 specified in paragraph (a) of this subsection (5) and
28 additional charges that are not specified in that paragraph,
29 all of the charges arising out of the same incident shall be
30 prosecuted under the criminal laws of this State.

31 (c) (i) If after trial or plea the minor is convicted of
32 any offense covered by paragraph (a) of this subsection (5),
33 then, in sentencing the minor, the court shall have available
34 any or all dispositions prescribed for that offense under

1 Chapter V of the Unified Code of Corrections.

2 (ii) If after trial or plea the court finds that the
3 minor committed an offense not covered by paragraph (a) of
4 this subsection (5), the conviction shall not invalidate the
5 verdict or the prosecution of the minor under the criminal
6 laws of this State; however, unless the State requests a
7 hearing for the purpose of sentencing the minor under Chapter
8 V of the Unified Code of Corrections, the Court must proceed
9 under Sections 5-705 and 5-710 of this Article. To request a
10 hearing, the State must file a written motion within 10 days
11 following the entry of a finding or the return of a verdict.
12 Reasonable notice of the motion shall be given to the minor
13 or his or her counsel. If the motion is made by the State,
14 the court shall conduct a hearing to determine if whether the
15 minor should be sentenced under Chapter V of the Unified Code
16 of Corrections. In making its determination, the court shall
17 consider among other matters: (a) whether there is evidence
18 that the offense was committed in an aggressive and
19 premeditated manner; (b) the age of the minor; (c) the
20 previous delinquent history of the minor; (d) whether there
21 are facilities particularly available to the Juvenile Court
22 or the Department of Corrections, Juvenile Division, for the
23 treatment and rehabilitation of the minor; (e) whether the
24 security of the public requires sentencing under Chapter V of
25 the Unified Code of Corrections; and (f) whether the minor
26 possessed a deadly weapon when committing the offense. The
27 rules of evidence shall be the same as if at trial. If after
28 the hearing the court finds that the minor should be
29 sentenced under Chapter V of the Unified Code of Corrections,
30 then the court shall sentence the minor accordingly having
31 available to it any or all dispositions so prescribed.

32 (6) The definition of delinquent minor under Section
33 5-120 of this Article shall not apply to any minor who,
34 pursuant to ~~subsection (1), (2), or (3)~~ or Section 5-805, or

1 5-810, has previously been placed under the jurisdiction of
 2 the criminal court and has been convicted of a crime under an
 3 adult criminal or penal statute. Such a minor shall be
 4 subject to prosecution under the criminal laws of this State.

5 (7) The procedures set out in this Article for the
 6 investigation, arrest and prosecution of juvenile offenders
 7 shall not apply to minors who are excluded from jurisdiction
 8 of the Juvenile Court, except that minors under 17 years of
 9 age shall be kept separate from confined adults.

10 (8) Nothing in this Act prohibits or limits the
 11 prosecution of any minor for an offense committed on or after
 12 his or her 18th ~~17th~~ birthday even though he or she is at the
 13 time of the offense a ward of the court.

14 (9) If an original petition for adjudication of wardship
 15 alleges the commission by a minor 13 years of age or over of
 16 an act that constitutes a crime under the laws of this State,
 17 the minor, with the consent of his or her counsel, may, at
 18 any time before commencement of the adjudicatory hearing,
 19 file with the court a motion that criminal prosecution be
 20 ordered and that the petition be dismissed insofar as the act
 21 or acts involved in the criminal proceedings are concerned.
 22 If such a motion is filed as herein provided, the court shall
 23 enter its order accordingly.

24 (10) (Blank). ~~If a minor is subject to the provisions of~~
 25 ~~subsection (2) of this Section, other than a minor charged~~
 26 ~~with a Class X felony violation of the Illinois Controlled~~
 27 ~~Substances Act, any party including the minor or the court~~
 28 ~~sua sponte may, before trial, move for a hearing for the~~
 29 ~~purpose of trying and sentencing the minor as a delinquent~~
 30 ~~minor. To request a hearing, the party must file a motion~~
 31 ~~prior to trial. Reasonable notice of the motion shall be~~
 32 ~~given to all parties. On its own motion or upon the filing of~~
 33 ~~a motion by one of the parties including the minor, the court~~
 34 ~~shall conduct a hearing to determine whether the minor should~~

1 be--tried--and--sentenced--as--a--delinquent-minor-under-this
2 Article.--In--making--its--determination,--the--court---shall
3 consider-among-other-matters:

4 (a)--The-age-of-the-minor;

5 (b)--Any--previous--delinquent-or-criminal-history-of-the
6 minor;

7 (c)--Any-previous-abuse-or-neglect-history-of-the-minor;

8 (d)--Any-mental-health--or--educational--history--of--the
9 minor,--or-both;--and

10 (e)--Whether--there--is--probable--cause--to--support-the
11 charge,--whether-the-minor-is-charged-through--accountability,
12 and--whether--there--is-evidence-the-minor-possessed-a-deadly
13 weapon-or-caused-serious-bodily-harm-during-the-offense.

14 Any-material-that--is--relevant--and--reliable--shall--be
15 admissible--at--the--hearing.---In-all-cases,--the-judge-shall
16 enter-an-order-permitting-prosecution-under-the-criminal-laws
17 of-Illinois-unless-the-judge--makes--a--finding--based--on--a
18 preponderance--of--the--evidence--that--the--minor--would--be
19 amenable--to--the--care,--treatment,--and--training--programs
20 available--through-the-facilities-of-the-juvenile-court-based
21 on-an-evaluation-of-the-factors--listed--in--this--subsection
22 (10):

23 (Source: P.A. 91-15, eff. 1-1-00; 91-673, eff. 12-22-99;
24 92-16, eff. 6-28-01; 92-665, eff. 1-1-03.)

25 (705 ILCS 405/5-407)

26 Sec. 5-407. Processing of juvenile in possession of a
27 firearm.

28 (a) If a law enforcement officer detains a minor
29 pursuant to Section 10-27.1A of the School Code, the officer
30 shall deliver the minor to the nearest juvenile officer, in
31 the manner prescribed by subsection (2) of Section 5-405 of
32 this Act. The juvenile officer shall deliver the minor
33 without unnecessary delay to the court or to the place

1 designated by rule or order of court for the reception of
2 minors. In no event shall the minor be eligible for any
3 other disposition by the juvenile police officer,
4 notwithstanding the provisions of subsection (3) of Section
5 5-405 of this Act.

6 (b) ~~Minors not-excluded--from--this--Act's--jurisdiction~~
7 ~~under-subsection-(3)(a)-of-Section-5-130-of-this-Act~~ shall be
8 brought before a judicial officer within 40 hours, exclusive
9 of Saturdays, Sundays, and court-designated holidays, for a
10 detention hearing to determine whether he or she shall be
11 further held in custody. If the court finds that there is
12 probable cause to believe that the minor is a delinquent
13 minor by virtue of his or her violation of item (4) of
14 subsection (a) of Section 24-1 of the Criminal Code of 1961
15 while on school grounds, that finding shall create a
16 presumption that immediate and urgent necessity exists under
17 subdivision (2) of Section 5-501 of this Act. Once the
18 presumption of immediate and urgent necessity has been
19 raised, the burden of demonstrating the lack of immediate and
20 urgent necessity shall be on any party that is opposing
21 detention for the minor. Should the court order detention
22 pursuant to this Section, the minor shall be detained,
23 pending the results of a court-ordered psychological
24 evaluation to determine if the minor is a risk to himself,
25 herself, or others. Upon receipt of the psychological
26 evaluation, the court shall review the determination
27 regarding the existence of urgent and immediate necessity.
28 The court shall consider the psychological evaluation in
29 conjunction with the other factors identified in subdivision
30 (2) of Section 5-501 of this Act in order to make a de novo
31 determination regarding whether it is a matter of immediate
32 and urgent necessity for the protection of the minor or of
33 the person or property of another that the minor be detained
34 or placed in a shelter care facility. In addition to the

1 pre-trial conditions found in Section 5-505 of this Act, the
2 court may order the minor to receive counseling and any other
3 services recommended by the psychological evaluation as a
4 condition for release of the minor.

5 (c) Upon making a determination that the student
6 presents a risk to himself, herself, or others, the court
7 shall issue an order restraining the student from entering
8 the property of the school if he or she has been suspended or
9 expelled from the school as a result of possessing a firearm.
10 The order shall restrain the student from entering the school
11 and school owned or leased property, including any conveyance
12 owned, leased, or contracted by the school to transport
13 students to or from school or a school-related activity. The
14 order shall remain in effect until such time as the court
15 determines that the student no longer presents a risk to
16 himself, herself, or others.

17 (d) Psychological evaluations ordered pursuant to
18 subsection (b) of this Section and statements made by the
19 minor during the course of these evaluations, shall not be
20 admissible on the issue of delinquency during the course of
21 any adjudicatory hearing held under this Act.

22 (e) In this Section:

23 "School" means any public or private elementary or
24 secondary school.

25 "School grounds" includes the real property comprising
26 any school, any conveyance owned, leased, or contracted by a
27 school to transport students to or from school or a
28 school-related activity, or any public way within 1,000 feet
29 of the real property comprising any school.

30 (Source: P.A. 91-11, eff. 6-4-99.)

31 (705 ILCS 405/5-410)

32 Sec. 5-410. Non-secure custody or detention.

33 (1) Any minor arrested or taken into custody pursuant to

1 this Act who requires care away from his or her home but who
2 does not require physical restriction shall be given
3 temporary care in a foster family home or other shelter
4 facility designated by the court.

5 (2) (a) Any minor 10 years of age or older arrested
6 pursuant to this Act where there is probable cause to believe
7 that the minor is a delinquent minor and that (i) secured
8 custody is a matter of immediate and urgent necessity for the
9 protection of the minor or of the person or property of
10 another, (ii) the minor is likely to flee the jurisdiction of
11 the court, or (iii) the minor was taken into custody under a
12 warrant, may be kept or detained in an authorized detention
13 facility. No minor under 12 years of age shall be detained
14 in a county jail or a municipal lockup for more than 6 hours.

15 (b) The written authorization of the probation officer
16 or detention officer (or other public officer designated by
17 the court in a county having 3,000,000 or more inhabitants)
18 constitutes authority for the superintendent of any juvenile
19 detention home to detain and keep a minor for up to 40 hours,
20 excluding Saturdays, Sundays and court-designated holidays.
21 These records shall be available to the same persons and
22 pursuant to the same conditions as are law enforcement
23 records as provided in Section 5-905.

24 (b-4) The consultation required by subsection (b-5)
25 shall not be applicable if the probation officer or detention
26 officer (or other public officer designated by the court in a
27 county having 3,000,000 or more inhabitants) utilizes a
28 scorable detention screening instrument, which has been
29 developed with input by the State's Attorney, to determine
30 whether a minor should be detained, however, subsection (b-5)
31 shall still be applicable where no such screening instrument
32 is used or where the probation officer, detention officer (or
33 other public officer designated by the court in a county
34 having 3,000,000 or more inhabitants) deviates from the

1 screening instrument.

2 (b-5) Subject to the provisions of subsection (b-4), if
3 a probation officer or detention officer (or other public
4 officer designated by the court in a county having 3,000,000
5 or more inhabitants) does not intend to detain a minor for an
6 offense which constitutes one of the following offenses he or
7 she shall consult with the State's Attorney's Office prior to
8 the release of the minor: first degree murder, second degree
9 murder, involuntary manslaughter, criminal sexual assault,
10 aggravated criminal sexual assault, aggravated battery with a
11 firearm, aggravated or heinous battery involving permanent
12 disability or disfigurement or great bodily harm, robbery,
13 aggravated robbery, armed robbery, vehicular hijacking,
14 aggravated vehicular hijacking, vehicular invasion, arson,
15 aggravated arson, kidnapping, aggravated kidnapping, home
16 invasion, burglary, or residential burglary.

17 (c) Except as otherwise provided in paragraph (a), (d),
18 or (e), no minor shall be detained in a county jail or
19 municipal lockup for more than 12 hours, unless the offense
20 is a crime of violence in which case the minor may be
21 detained up to 24 hours. For the purpose of this paragraph,
22 "crime of violence" has the meaning ascribed to it in Section
23 1-10 of the Alcoholism and Other Drug Abuse and Dependency
24 Act.

25 (i) The period of detention is deemed to have begun once
26 the minor has been placed in a locked room or cell or
27 handcuffed to a stationary object in a building housing a
28 county jail or municipal lockup. Time spent transporting a
29 minor is not considered to be time in detention or secure
30 custody.

31 (ii) Any minor so confined shall be under periodic
32 supervision and shall not be permitted to come into or remain
33 in contact with adults in custody in the building.

34 (iii) Upon placement in secure custody in a jail or

1 lockup, the minor shall be informed of the purpose of the
2 detention, the time it is expected to last and the fact that
3 it cannot exceed the time specified under this Act.

4 (iv) A log shall be kept which shows the offense which
5 is the basis for the detention, the reasons and circumstances
6 for the decision to detain and the length of time the minor
7 was in detention.

8 (v) Violation of the time limit on detention in a county
9 jail or municipal lockup shall not, in and of itself, render
10 inadmissible evidence obtained as a result of the violation
11 of this time limit. Minors under 18 17 years of age shall be
12 kept separate from confined adults and may not at any time be
13 kept in the same cell, room or yard with adults confined
14 pursuant to criminal law. Persons 18 17 years of age and
15 older who have a petition of delinquency filed against them
16 shall be confined in an adult detention facility.

17 (d) (i) If a minor 12 years of age or older is confined
18 in a county jail in a county with a population below
19 3,000,000 inhabitants, then the minor's confinement shall be
20 implemented in such a manner that there will be no contact by
21 sight, sound or otherwise between the minor and adult
22 prisoners. Minors 12 years of age or older must be kept
23 separate from confined adults and may not at any time be kept
24 in the same cell, room, or yard with confined adults. This
25 paragraph (d)(i) shall only apply to confinement pending an
26 adjudicatory hearing and shall not exceed 40 hours, excluding
27 Saturdays, Sundays and court designated holidays. To accept
28 or hold minors during this time period, county jails shall
29 comply with all monitoring standards promulgated by the
30 Department of Corrections and training standards approved by
31 the Illinois Law Enforcement Training Standards Board.

32 (ii) To accept or hold minors, 12 years of age or older,
33 after the time period prescribed in paragraph (d)(i) of this
34 subsection (2) of this Section but not exceeding 7 days

1 including Saturdays, Sundays and holidays pending an
2 adjudicatory hearing, county jails shall comply with all
3 temporary detention standards promulgated by the Department
4 of Corrections and training standards approved by the
5 Illinois Law Enforcement Training Standards Board.

6 (iii) To accept or hold minors 12 years of age or older,
7 after the time period prescribed in paragraphs (d)(i) and
8 (d)(ii) of this subsection (2) of this Section, county jails
9 shall comply with all programmatic and training standards for
10 juvenile detention homes promulgated by the Department of
11 Corrections.

12 (e) When a minor who is at least 15 years of age is
13 prosecuted under the criminal laws of this State, the court
14 may enter an order directing that the juvenile be confined in
15 the county jail. However, any juvenile confined in the
16 county jail under this provision shall be separated from
17 adults who are confined in the county jail in such a manner
18 that there will be no contact by sight, sound or otherwise
19 between the juvenile and adult prisoners.

20 (f) For purposes of appearing in a physical lineup, the
21 minor may be taken to a county jail or municipal lockup under
22 the direct and constant supervision of a juvenile police
23 officer. During such time as is necessary to conduct a
24 lineup, and while supervised by a juvenile police officer,
25 the sight and sound separation provisions shall not apply.

26 (g) For purposes of processing a minor, the minor may be
27 taken to a County Jail or municipal lockup under the direct
28 and constant supervision of a law enforcement officer or
29 correctional officer. During such time as is necessary to
30 process the minor, and while supervised by a law enforcement
31 officer or correctional officer, the sight and sound
32 separation provisions shall not apply.

33 (3) If the probation officer or State's Attorney (or
34 such other public officer designated by the court in a county

1 having 3,000,000 or more inhabitants) determines that the
2 minor may be a delinquent minor as described in subsection
3 (3) of Section 5-105, and should be retained in custody but
4 does not require physical restriction, the minor may be
5 placed in non-secure custody for up to 40 hours pending a
6 detention hearing.

7 (4) Any minor taken into temporary custody, not
8 requiring secure detention, may, however, be detained in the
9 home of his or her parent or guardian subject to such
10 conditions as the court may impose.

11 (Source: P.A. 90-590, eff. 1-1-99.)

12 (705 ILCS 405/5-901)

13 Sec. 5-901. Court file.

14 (1) The Court file with respect to proceedings under
15 this Article shall consist of the petitions, pleadings,
16 victim impact statements, process, service of process,
17 orders, writs and docket entries reflecting hearings held and
18 judgments and decrees entered by the court. The court file
19 shall be kept separate from other records of the court.

20 (a) The file, including information identifying the
21 victim or alleged victim of any sex offense, shall be
22 disclosed only to the following parties when necessary
23 for discharge of their official duties:

24 (i) A judge of the circuit court and members
25 of the staff of the court designated by the judge;

26 (ii) Parties to the proceedings and their
27 attorneys;

28 (iii) Victims and their attorneys, except in
29 cases of multiple victims of sex offenses in which
30 case the information identifying the nonrequesting
31 victims shall be redacted;

32 (iv) Probation officers, law enforcement
33 officers or prosecutors or their staff;

1 (v) Adult and juvenile Prisoner Review Boards.

2 (b) The Court file redacted to remove any
3 information identifying the victim or alleged victim of
4 any sex offense shall be disclosed only to the following
5 parties when necessary for discharge of their official
6 duties:

7 (i) Authorized military personnel;

8 (ii) Persons engaged in bona fide research,
9 with the permission of the judge of the juvenile
10 court and the chief executive of the agency that
11 prepared the particular recording: provided that
12 publication of such research results in no
13 disclosure of a minor's identity and protects the
14 confidentiality of the record;

15 (iii) The Secretary of State to whom the Clerk
16 of the Court shall report the disposition of all
17 cases, as required in Section 6-204 or Section
18 6-205.1 of the Illinois Vehicle Code. However,
19 information reported relative to these offenses
20 shall be privileged and available only to the
21 Secretary of State, courts, and police officers;

22 (iv) The administrator of a bonafide substance
23 abuse student assistance program with the permission
24 of the presiding judge of the juvenile court;

25 (v) Any individual, or any public or private
26 agency or institution, having custody of the
27 juvenile under court order or providing educational,
28 medical or mental health services to the juvenile or
29 a court-approved advocate for the juvenile or any
30 placement provider or potential placement provider
31 as determined by the court.

32 (3) A minor who is the victim or alleged victim in a
33 juvenile proceeding shall be provided the same
34 confidentiality regarding disclosure of identity as the minor

1 who is the subject of record. Information identifying victims
2 and alleged victims of sex offenses, shall not be disclosed
3 or open to public inspection under any circumstances. Nothing
4 in this Section shall prohibit the victim or alleged victim
5 of any sex offense from voluntarily disclosing his or her
6 identity.

7 (4) Relevant information, reports and records shall be
8 made available to the Department of Corrections when a
9 juvenile offender has been placed in the custody of the
10 Department of Corrections, Juvenile Division.

11 (5) Except as otherwise provided in this subsection (5),
12 juvenile court records shall not be made available to the
13 general public but may be inspected by representatives of
14 agencies, associations and news media or other properly
15 interested persons by general or special order of the court.
16 The State's Attorney, the minor, his or her parents, guardian
17 and counsel shall at all times have the right to examine
18 court files and records.

19 (a) The court shall allow the general public to
20 have access to the name, address, and offense of a minor
21 who is adjudicated a delinquent minor under this Act
22 under either of the following circumstances:

23 (i) The adjudication of delinquency was based
24 upon the minor's commission of first degree murder,
25 attempt to commit first degree murder, aggravated
26 criminal sexual assault, or criminal sexual assault;
27 or

28 (ii) The court has made a finding that the
29 minor was at least 13 years of age at the time the
30 act was committed and the adjudication of
31 delinquency was based upon the minor's commission
32 of: (A) an act in furtherance of the commission of a
33 felony as a member of or on behalf of a criminal
34 street gang, (B) an act involving the use of a

1 firearm in the commission of a felony, (C) an act
2 that would be a Class X felony offense under or the
3 minor's second or subsequent Class 2 or greater
4 felony offense under the Cannabis Control Act if
5 committed by an adult, (D) an act that would be a
6 second or subsequent offense under Section 402 of
7 the Illinois Controlled Substances Act if committed
8 by an adult, or (E) an act that would be an offense
9 under Section 401 of the Illinois Controlled
10 Substances Act if committed by an adult.

11 (b) The court shall allow the general public to
12 have access to the name, address, and offense of a minor
13 who is at least 13 years of age at the time the offense
14 is committed and who is convicted, in criminal
15 proceedings permitted or required under Section 5-805,
16 under either of the following circumstances:

17 (i) The minor has been convicted of first
18 degree murder, attempt to commit first degree
19 murder, aggravated criminal sexual assault, or
20 criminal sexual assault,

21 (ii) The court has made a finding that the
22 minor was at least 13 years of age at the time the
23 offense was committed and the conviction was based
24 upon the minor's commission of: (A) an offense in
25 furtherance of the commission of a felony as a
26 member of or on behalf of a criminal street gang,
27 (B) an offense involving the use of a firearm in the
28 commission of a felony, (C) a Class X felony offense
29 under the Cannabis Control Act or a second or
30 subsequent Class 2 or greater felony offense under
31 the Cannabis Control Act, (D) a second or subsequent
32 offense under Section 402 of the Illinois Controlled
33 Substances Act, or (E) an offense under Section 401
34 of the Illinois Controlled Substances Act.

1 (6) Nothing in this Section shall be construed to limit
2 the use of a adjudication of delinquency as evidence in any
3 juvenile or criminal proceeding, where it would otherwise be
4 admissible under the rules of evidence, including but not
5 limited to, use as impeachment evidence against any witness,
6 including the minor if he or she testifies.

7 (7) Nothing in this Section shall affect the right of a
8 Civil Service Commission or appointing authority examining
9 the character and fitness of an applicant for a position as a
10 law enforcement officer to ascertain whether that applicant
11 was ever adjudicated to be a delinquent minor and, if so, to
12 examine the records or evidence which were made in
13 proceedings under this Act.

14 (8) Following any adjudication of delinquency for a
15 crime which would be a felony if committed by an adult, or
16 following any adjudication of delinquency for a violation of
17 Section 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of
18 1961, the State's Attorney shall ascertain whether the minor
19 respondent is enrolled in school and, if so, shall provide a
20 copy of the sentencing order to the principal or chief
21 administrative officer of the school. Access to such
22 juvenile records shall be limited to the principal or chief
23 administrative officer of the school and any guidance
24 counselor designated by him or her.

25 (9) Nothing contained in this Act prevents the sharing
26 or disclosure of information or records relating or
27 pertaining to juveniles subject to the provisions of the
28 Serious Habitual Offender Comprehensive Action Program when
29 that information is used to assist in the early
30 identification and treatment of habitual juvenile offenders.

31 (11) The Clerk of the Circuit Court shall report to the
32 Department of State Police, in the form and manner required
33 by the Department of State Police, the final disposition of
34 each minor who has been arrested or taken into custody before

1 his or her 18th ~~17th~~ birthday for those offenses required to
 2 be reported under Section 5 of the Criminal Identification
 3 Act. Information reported to the Department under this
 4 Section may be maintained with records that the Department
 5 files under Section 2.1 of the Criminal Identification Act.

6 (12) Information or records may be disclosed to the
 7 general public when the court is conducting hearings under
 8 Section 5-805 or 5-810.

9 (Source: P.A. 90-590, eff. 1-1-99.)

10 (705 ILCS 405/5-905)

11 Sec. 5-905. Law enforcement records.

12 (1) Law Enforcement Records. Inspection and copying of
 13 law enforcement records maintained by law enforcement
 14 agencies that relate to a minor who has been arrested or
 15 taken into custody before his or her 18th ~~17th~~ birthday shall
 16 be restricted to the following and when necessary for the
 17 discharge of their official duties:

18 (a) A judge of the circuit court and members of the
 19 staff of the court designated by the judge;

20 (b) Law enforcement officers, probation officers or
 21 prosecutors or their staff;

22 (c) The minor, the minor's parents or legal
 23 guardian and their attorneys, but only when the juvenile
 24 has been charged with an offense;

25 (d) Adult and Juvenile Prisoner Review Boards;

26 (e) Authorized military personnel;

27 (f) Persons engaged in bona fide research, with the
 28 permission of the judge of juvenile court and the chief
 29 executive of the agency that prepared the particular
 30 recording: provided that publication of such research
 31 results in no disclosure of a minor's identity and
 32 protects the confidentiality of the record;

33 (g) Individuals responsible for supervising or

1 providing temporary or permanent care and custody of
2 minors pursuant to orders of the juvenile court or
3 directives from officials of the Department of Children
4 and Family Services or the Department of Human Services
5 who certify in writing that the information will not be
6 disclosed to any other party except as provided under law
7 or order of court;

8 (h) The appropriate school official. Inspection
9 and copying shall be limited to law enforcement records
10 transmitted to the appropriate school official by a local
11 law enforcement agency under a reciprocal reporting
12 system established and maintained between the school
13 district and the local law enforcement agency under
14 Section 10-20.14 of the School Code concerning a minor
15 enrolled in a school within the school district who has
16 been arrested for any offense classified as a felony or a
17 Class A or B misdemeanor.

18 (2) Information identifying victims and alleged victims
19 of sex offenses, shall not be disclosed or open to public
20 inspection under any circumstances. Nothing in this Section
21 shall prohibit the victim or alleged victim of any sex
22 offense from voluntarily disclosing his or her identity.

23 (3) Relevant information, reports and records shall be
24 made available to the Department of Corrections when a
25 juvenile offender has been placed in the custody of the
26 Department of Corrections, Juvenile Division.

27 (4) Nothing in this Section shall prohibit the
28 inspection or disclosure to victims and witnesses of
29 photographs contained in the records of law enforcement
30 agencies when the inspection or disclosure is conducted in
31 the presence of a law enforcement officer for purposes of
32 identification or apprehension of any person in the course of
33 any criminal investigation or prosecution.

34 (5) The records of law enforcement officers concerning

1 all minors under 18 17 years of age must be maintained
2 separate from the records of adults and may not be open to
3 public inspection or their contents disclosed to the public
4 except by order of the court or when the institution of
5 criminal proceedings has been permitted under Section 5-130
6 or 5-805 or required under Section 5-130 or 5-805 or such a
7 person has been convicted of a crime and is the subject of
8 pre-sentence investigation or when provided by law.

9 (6) Except as otherwise provided in this subsection (6),
10 law enforcement officers may not disclose the identity of any
11 minor in releasing information to the general public as to
12 the arrest, investigation or disposition of any case
13 involving a minor. Any victim or parent or legal guardian of
14 a victim may petition the court to disclose the name and
15 address of the minor and the minor's parents or legal
16 guardian, or both. Upon a finding by clear and convincing
17 evidence that the disclosure is either necessary for the
18 victim to pursue a civil remedy against the minor or the
19 minor's parents or legal guardian, or both, or to protect the
20 victim's person or property from the minor, then the court
21 may order the disclosure of the information to the victim or
22 to the parent or legal guardian of the victim only for the
23 purpose of the victim pursuing a civil remedy against the
24 minor or the minor's parents or legal guardian, or both, or
25 to protect the victim's person or property from the minor.

26 (7) Nothing contained in this Section shall prohibit law
27 enforcement agencies when acting in their official capacity
28 from communicating with each other by letter, memorandum,
29 teletype or intelligence alert bulletin or other means the
30 identity or other relevant information pertaining to a person
31 under 18 17 years of age. The information provided under
32 this subsection (7) shall remain confidential and shall not
33 be publicly disclosed, except as otherwise allowed by law.

34 (8) No person shall disclose information under this

1 Section except when acting in his or her official capacity
2 and as provided by law or order of court.

3 (Source: P.A. 90-590, eff. 1-1-99; 91-479, eff. 1-1-00.)

4 (705 ILCS 405/5-915)

5 Sec. 5-915. Expungement of law enforcement and juvenile
6 court records.

7 (1) Whenever any person has attained the age of 18 ~~17~~ or
8 whenever all juvenile court proceedings relating to that
9 person have been terminated, whichever is later, the person
10 may petition the court to expunge law enforcement records
11 relating to incidents occurring before his or her 18th ~~17th~~
12 birthday or his or her juvenile court records, or both, but
13 only in the following circumstances:

14 (a) the minor was arrested and no petition for
15 delinquency was filed with the clerk of the circuit
16 court; or

17 (b) the minor was charged with an offense and was
18 found not delinquent of that offense; or

19 (c) the minor was placed under supervision pursuant
20 to Section 5-615, and the order of supervision has since
21 been successfully terminated; or

22 (d) the minor was adjudicated for an offense which
23 would be a Class B misdemeanor if committed by an adult.

24 (2) Any person may petition the court to expunge all law
25 enforcement records relating to any incidents occurring
26 before his or her 18th ~~17th~~ birthday which did not result in
27 proceedings in criminal court and all juvenile court records
28 with respect to any adjudications except those based upon
29 first degree murder and sex offenses which would be felonies
30 if committed by an adult, if the person for whom expungement
31 is sought has had no convictions for any crime since his or
32 her 18th ~~17th~~ birthday and:

33 (a) has attained the age of 21 years; or

1 (b) 5 years have elapsed since all juvenile court
2 proceedings relating to him or her have been terminated
3 or his or her commitment to the Department of
4 Corrections, Juvenile Division pursuant to this Act has
5 been terminated;

6 whichever is later of (a) or (b).

7 (3) The chief judge of the circuit in which an arrest
8 was made or a charge was brought or any judge of that circuit
9 designated by the chief judge may, upon verified petition of
10 a person who is the subject of an arrest or a juvenile court
11 proceeding under subsection (1) or (2) of this Section, order
12 the law enforcement records or official court file, or both,
13 to be expunged from the official records of the arresting
14 authority, the clerk of the circuit court and the Department
15 of State Police. Notice of the petition shall be served upon
16 the State's Attorney and upon the arresting authority which
17 is the subject of the petition for expungement.

18 (4) Upon entry of an order expunging records or files,
19 the offense, which the records or files concern shall be
20 treated as if it never occurred. Law enforcement officers and
21 other public offices and agencies shall properly reply on
22 inquiry that no record or file exists with respect to the
23 person.

24 (5) Records which have not been expunged are sealed, and
25 may be obtained only under the provisions of Sections 5-901,
26 5-905 and 5-915.

27 (6) Nothing in this Section shall be construed to
28 prohibit the maintenance of information relating to an
29 offense after records or files concerning the offense have
30 been expunged if the information is kept in a manner that
31 does not enable identification of the offender. This
32 information may only be used for statistical and bona fide
33 research purposes.

34 (Source: P.A. 90-590, eff. 1-1-99.)

1 Section 20. The Unified Code of Corrections is amended
2 by changing Sections 3-10-7, 5-5-3.2, and 5-6-3 as follows:

3 (730 ILCS 5/3-10-7) (from Ch. 38, par. 1003-10-7)

4 Sec. 3-10-7. Interdivisional Transfers. (a) In any case
5 where a minor was originally prosecuted under the provisions
6 of the Criminal Code of 1961, as amended, and sentenced under
7 the provisions of this Act pursuant to Section 2-7 of the
8 Juvenile Court Act or Section 5-805 of the Juvenile Court Act
9 of 1987 and committed to the Juvenile Division under Section
10 5-8-6, the Department of Corrections shall, within 30 days of
11 the date that the minor reaches the age of 18 ~~17~~, send formal
12 notification to the sentencing court and the State's Attorney
13 of the county from which the minor was sentenced indicating
14 the day upon which the minor offender will achieve the age of
15 18 ~~17~~. Within 90 days of receipt of that notice, the
16 sentencing court shall conduct a hearing, pursuant to the
17 provisions of subsection (c) of this Section to determine
18 whether or not the minor shall continue to remain under the
19 auspices of the Juvenile Division or be transferred to the
20 Adult Division of the Department of Corrections.

21 The minor shall be served with notice of the date of the
22 hearing, shall be present at the hearing, and has the right
23 to counsel at the hearing. The minor, with the consent of
24 his or her counsel or guardian may waive his presence at
25 hearing.

26 (b) Unless sooner paroled under Section 3-3-3, the
27 confinement of a minor person committed for an indeterminate
28 sentence in a criminal proceeding shall terminate at the
29 expiration of the maximum term of imprisonment, and he shall
30 thereupon be released to serve a period of parole under
31 Section 5-8-1, but if the maximum term of imprisonment does
32 not expire until after his 21st birthday, he shall continue
33 to be subject to the control and custody of the Department,

1 and on his 21st birthday, he shall be transferred to the
2 Adult Division. If such person is on parole on his 21st
3 birthday, his parole supervision may be transferred to the
4 Adult Division.

5 (c) Any interdivisional transfer hearing conducted
6 pursuant to subsection (a) of this Section shall consider all
7 available information which may bear upon the issue of
8 transfer. All evidence helpful to the court in determining
9 the question of transfer, including oral and written reports
10 containing hearsay, may be relied upon to the extent of its
11 probative value, even though not competent for the purposes
12 of an adjudicatory hearing. The court shall consider, along
13 with any other relevant matter, the following:

14 1. The nature of the offense for which the minor was
15 found guilty and the length of the sentence the minor has to
16 serve and the record and previous history of the minor.

17 2. The record of the minor's adjustment within the
18 Department of Corrections' Juvenile Division, including, but
19 not limited to, reports from the minor's counselor, any
20 escapes, attempted escapes or violent or disruptive conduct
21 on the part of the minor, any tickets received by the minor,
22 summaries of classes attended by the minor, and any record of
23 work performed by the minor while in the institution.

24 3. The relative maturity of the minor based upon the
25 physical, psychological and emotional development of the
26 minor.

27 4. The record of the rehabilitative progress of the
28 minor and an assessment of the vocational potential of the
29 minor.

30 5. An assessment of the necessity for transfer of the
31 minor, including, but not limited to, the availability of
32 space within the Department of Corrections, the disciplinary
33 and security problem which the minor has presented to the
34 Juvenile Division and the practicability of maintaining the

1 minor in a juvenile facility, whether resources have been
2 exhausted within the Juvenile Division of the Department of
3 Corrections, the availability of rehabilitative and
4 vocational programs within the Department of Corrections, and
5 the anticipated ability of the minor to adjust to confinement
6 within an adult institution based upon the minor's physical
7 size and maturity.

8 All relevant factors considered under this subsection
9 need not be resolved against the juvenile in order to justify
10 such transfer. Access to social records, probation reports
11 or any other reports which are considered by the court for
12 the purpose of transfer shall be made available to counsel
13 for the juvenile at least 30 days prior to the date of the
14 transfer hearing. The Sentencing Court, upon granting a
15 transfer order, shall accompany such order with a statement
16 of reasons.

17 (d) Whenever the Director or his designee determines
18 that the interests of safety, security and discipline require
19 the transfer to the Adult Division of a person 18 17 years or
20 older who was prosecuted under the provisions of the Criminal
21 Code of 1961, as amended, and sentenced under the provisions
22 of this Act pursuant to Section 2-7 of the Juvenile Court Act
23 or Section 5-805 of the Juvenile Court Act of 1987 and
24 committed to the Juvenile Division under Section 5-8-6, the
25 Director or his designee may authorize the emergency transfer
26 of such person, unless the transfer of the person is governed
27 by subsection (e) of this Section. The sentencing court shall
28 be provided notice of any emergency transfer no later than 3
29 days after the emergency transfer. Upon motion brought
30 within 60 days of the emergency transfer by the sentencing
31 court or any party, the sentencing court may conduct a
32 hearing pursuant to the provisions of subsection (c) of this
33 Section in order to determine whether the person shall remain
34 confined in the Adult Division.

1 (e) The Director or his designee may authorize the
2 permanent transfer to the Adult Division of any person 18
3 years or older who was prosecuted under the provisions of the
4 Criminal Code of 1961, as amended, and sentenced under the
5 provisions of this Act pursuant to Section 2-7 of the
6 Juvenile Court Act or Section 5-805 of the Juvenile Court Act
7 of 1987 and committed to the Juvenile Division under Section
8 5-8-6 of this Act. The Director or his designee shall be
9 governed by the following factors in determining whether to
10 authorize the permanent transfer of the person to the Adult
11 Division:

12 1. The nature of the offense for which the person was
13 found guilty and the length of the sentence the person has to
14 serve and the record and previous history of the person.

15 2. The record of the person's adjustment within the
16 Department of Corrections' Juvenile Division, including, but
17 not limited to, reports from the person's counselor, any
18 escapes, attempted escapes or violent or disruptive conduct
19 on the part of the person, any tickets received by the
20 person, summaries of classes attended by the person, and any
21 record of work performed by the person while in the
22 institution.

23 3. The relative maturity of the person based upon the
24 physical, psychological and emotional development of the
25 person.

26 4. The record of the rehabilitative progress of the
27 person and an assessment of the vocational potential of the
28 person.

29 5. An assessment of the necessity for transfer of the
30 person, including, but not limited to, the availability of
31 space within the Department of Corrections, the disciplinary
32 and security problem which the person has presented to the
33 Juvenile Division and the practicability of maintaining the
34 person in a juvenile facility, whether resources have been

1 exhausted within the Juvenile Division of the Department of
2 Corrections, the availability of rehabilitative and
3 vocational programs within the Department of Corrections, and
4 the anticipated ability of the person to adjust to
5 confinement within an adult institution based upon the
6 person's physical size and maturity.

7 (Source: P.A. 90-590, eff. 1-1-99.)

8 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

9 Sec. 5-5-3.2. Factors in Aggravation.

10 (a) The following factors shall be accorded weight in
11 favor of imposing a term of imprisonment or may be considered
12 by the court as reasons to impose a more severe sentence
13 under Section 5-8-1:

14 (1) the defendant's conduct caused or threatened
15 serious harm;

16 (2) the defendant received compensation for
17 committing the offense;

18 (3) the defendant has a history of prior
19 delinquency or criminal activity;

20 (4) the defendant, by the duties of his office or
21 by his position, was obliged to prevent the particular
22 offense committed or to bring the offenders committing it
23 to justice;

24 (5) the defendant held public office at the time of
25 the offense, and the offense related to the conduct of
26 that office;

27 (6) the defendant utilized his professional
28 reputation or position in the community to commit the
29 offense, or to afford him an easier means of committing
30 it;

31 (7) the sentence is necessary to deter others from
32 committing the same crime;

33 (8) the defendant committed the offense against a

1 person 60 years of age or older or such person's
2 property;

3 (9) the defendant committed the offense against a
4 person who is physically handicapped or such person's
5 property;

6 (10) by reason of another individual's actual or
7 perceived race, color, creed, religion, ancestry, gender,
8 sexual orientation, physical or mental disability, or
9 national origin, the defendant committed the offense
10 against (i) the person or property of that individual;
11 (ii) the person or property of a person who has an
12 association with, is married to, or has a friendship with
13 the other individual; or (iii) the person or property of
14 a relative (by blood or marriage) of a person described
15 in clause (i) or (ii). For the purposes of this Section,
16 "sexual orientation" means heterosexuality,
17 homosexuality, or bisexuality;

18 (11) the offense took place in a place of worship
19 or on the grounds of a place of worship, immediately
20 prior to, during or immediately following worship
21 services. For purposes of this subparagraph, "place of
22 worship" shall mean any church, synagogue or other
23 building, structure or place used primarily for religious
24 worship;

25 (12) the defendant was convicted of a felony
26 committed while he was released on bail or his own
27 recognizance pending trial for a prior felony and was
28 convicted of such prior felony, or the defendant was
29 convicted of a felony committed while he was serving a
30 period of probation, conditional discharge, or mandatory
31 supervised release under subsection (d) of Section 5-8-1
32 for a prior felony;

33 (13) the defendant committed or attempted to commit
34 a felony while he was wearing a bulletproof vest. For

1 the purposes of this paragraph (13), a bulletproof vest
2 is any device which is designed for the purpose of
3 protecting the wearer from bullets, shot or other lethal
4 projectiles;

5 (14) the defendant held a position of trust or
6 supervision such as, but not limited to, family member as
7 defined in Section 12-12 of the Criminal Code of 1961,
8 teacher, scout leader, baby sitter, or day care worker,
9 in relation to a victim under 18 years of age, and the
10 defendant committed an offense in violation of Section
11 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
12 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of
13 1961 against that victim;

14 (15) the defendant committed an offense related to
15 the activities of an organized gang. For the purposes of
16 this factor, "organized gang" has the meaning ascribed to
17 it in Section 10 of the Streetgang Terrorism Omnibus
18 Prevention Act;

19 (16) the defendant committed an offense in
20 violation of one of the following Sections while in a
21 school, regardless of the time of day or time of year; on
22 any conveyance owned, leased, or contracted by a school
23 to transport students to or from school or a school
24 related activity; on the real property of a school; or on
25 a public way within 1,000 feet of the real property
26 comprising any school: Section 10-1, 10-2, 10-5, 11-15.1,
27 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1,
28 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1,
29 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of
30 1961;

31 (16.5) the defendant committed an offense in
32 violation of one of the following Sections while in a day
33 care center, regardless of the time of day or time of
34 year; on the real property of a day care center,

1 regardless of the time of day or time of year; or on a
2 public way within 1,000 feet of the real property
3 comprising any day care center, regardless of the time of
4 day or time of year: Section 10-1, 10-2, 10-5, 11-15.1,
5 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1,
6 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1,
7 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of
8 1961;

9 (17) the defendant committed the offense by reason
10 of any person's activity as a community policing
11 volunteer or to prevent any person from engaging in
12 activity as a community policing volunteer. For the
13 purpose of this Section, "community policing volunteer"
14 has the meaning ascribed to it in Section 2-3.5 of the
15 Criminal Code of 1961;

16 (18) the defendant committed the offense in a
17 nursing home or on the real property comprising a nursing
18 home. For the purposes of this paragraph (18), "nursing
19 home" means a skilled nursing or intermediate long term
20 care facility that is subject to license by the Illinois
21 Department of Public Health under the Nursing Home Care
22 Act; or

23 (19) the defendant was a federally licensed firearm
24 dealer and was previously convicted of a violation of
25 subsection (a) of Section 3 of the Firearm Owners
26 Identification Card Act and has now committed either a
27 felony violation of the Firearm Owners Identification
28 Card Act or an act of armed violence while armed with a
29 firearm.

30 For the purposes of this Section:

31 "School" is defined as a public or private elementary or
32 secondary school, community college, college, or university.

33 "Day care center" means a public or private State
34 certified and licensed day care center as defined in Section

1 2.09 of the Child Care Act of 1969 that displays a sign in
2 plain view stating that the property is a day care center.

3 (b) The following factors may be considered by the court
4 as reasons to impose an extended term sentence under Section
5 5-8-2 upon any offender:

6 (1) When a defendant is convicted of any felony,
7 after having been previously convicted in Illinois or any
8 other jurisdiction of the same or similar class felony or
9 greater class felony, when such conviction has occurred
10 within 10 years after the previous conviction, excluding
11 time spent in custody, and such charges are separately
12 brought and tried and arise out of different series of
13 acts; or

14 (2) When a defendant is convicted of any felony and
15 the court finds that the offense was accompanied by
16 exceptionally brutal or heinous behavior indicative of
17 wanton cruelty; or

18 (3) When a defendant is convicted of voluntary
19 manslaughter, second degree murder, involuntary
20 manslaughter or reckless homicide in which the defendant
21 has been convicted of causing the death of more than one
22 individual; or

23 (4) When a defendant is convicted of any felony
24 committed against:

25 (i) a person under 12 years of age at the time
26 of the offense or such person's property;

27 (ii) a person 60 years of age or older at the
28 time of the offense or such person's property; or

29 (iii) a person physically handicapped at the
30 time of the offense or such person's property; or

31 (5) In the case of a defendant convicted of
32 aggravated criminal sexual assault or criminal sexual
33 assault, when the court finds that aggravated criminal
34 sexual assault or criminal sexual assault was also

1 committed on the same victim by one or more other
2 individuals, and the defendant voluntarily participated
3 in the crime with the knowledge of the participation of
4 the others in the crime, and the commission of the crime
5 was part of a single course of conduct during which there
6 was no substantial change in the nature of the criminal
7 objective; or

8 (6) When a defendant is convicted of any felony and
9 the offense involved any of the following types of
10 specific misconduct committed as part of a ceremony,
11 rite, initiation, observance, performance, practice or
12 activity of any actual or ostensible religious,
13 fraternal, or social group:

14 (i) the brutalizing or torturing of humans or
15 animals;

16 (ii) the theft of human corpses;

17 (iii) the kidnapping of humans;

18 (iv) the desecration of any cemetery,
19 religious, fraternal, business, governmental,
20 educational, or other building or property; or

21 (v) ritualized abuse of a child; or

22 (7) When a defendant is convicted of first degree
23 murder, after having been previously convicted in
24 Illinois of any offense listed under paragraph (c)(2) of
25 Section 5-5-3, when such conviction has occurred within
26 10 years after the previous conviction, excluding time
27 spent in custody, and such charges are separately brought
28 and tried and arise out of different series of acts; or

29 (8) When a defendant is convicted of a felony other
30 than conspiracy and the court finds that the felony was
31 committed under an agreement with 2 or more other persons
32 to commit that offense and the defendant, with respect to
33 the other individuals, occupied a position of organizer,
34 supervisor, financier, or any other position of

1 management or leadership, and the court further finds
2 that the felony committed was related to or in
3 furtherance of the criminal activities of an organized
4 gang or was motivated by the defendant's leadership in an
5 organized gang; or

6 (9) When a defendant is convicted of a felony
7 violation of Section 24-1 of the Criminal Code of 1961
8 and the court finds that the defendant is a member of an
9 organized gang; or

10 (10) When a defendant committed the offense using a
11 firearm with a laser sight attached to it. For purposes
12 of this paragraph (10), "laser sight" has the meaning
13 ascribed to it in Section 24.6-5 of the Criminal Code of
14 1961; or

15 (11) When a defendant who was at least 18 ~~17~~ years
16 of age at the time of the commission of the offense is
17 convicted of a felony and has been previously adjudicated
18 a delinquent minor under the Juvenile Court Act of 1987
19 for an act that if committed by an adult would be a Class
20 X or Class 1 felony when the conviction has occurred
21 within 10 years after the previous adjudication,
22 excluding time spent in custody; or

23 (12) When a defendant commits an offense involving
24 the illegal manufacture of a controlled substance under
25 Section 401 of the Illinois Controlled Substances Act or
26 the illegal possession of explosives and an emergency
27 response officer in the performance of his or her duties
28 is killed or injured at the scene of the offense while
29 responding to the emergency caused by the commission of
30 the offense. In this paragraph (12), "emergency" means a
31 situation in which a person's life, health, or safety is
32 in jeopardy; and "emergency response officer" means a
33 peace officer, community policing volunteer, fireman,
34 emergency medical technician-ambulance, emergency medical

1 technician-intermediate, emergency medical
2 technician-paramedic, ambulance driver, other medical
3 assistance or first aid personnel, or hospital emergency
4 room personnel.

5 (b-1) For the purposes of this Section, "organized gang"
6 has the meaning ascribed to it in Section 10 of the Illinois
7 Streetgang Terrorism Omnibus Prevention Act.

8 (c) The court may impose an extended term sentence under
9 Section 5-8-2 upon any offender who was convicted of
10 aggravated criminal sexual assault or predatory criminal
11 sexual assault of a child under subsection (a)(1) of Section
12 12-14.1 of the Criminal Code of 1961 where the victim was
13 under 18 years of age at the time of the commission of the
14 offense.

15 (d) The court may impose an extended term sentence under
16 Section 5-8-2 upon any offender who was convicted of unlawful
17 use of weapons under Section 24-1 of the Criminal Code of
18 1961 for possessing a weapon that is not readily
19 distinguishable as one of the weapons enumerated in Section
20 24-1 of the Criminal Code of 1961.

21 (Source: P.A. 91-119, eff. 1-1-00; 91-120, eff. 7-15-99;
22 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268, eff.
23 1-1-00; 91-357, eff. 7-29-99; 91-437, eff. 1-1-00; 91-696,
24 eff. 4-13-00; 92-266, eff. 1-1-02.)

25 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)
26 Sec. 5-6-3. Conditions of Probation and of Conditional
27 Discharge.

28 (a) The conditions of probation and of conditional
29 discharge shall be that the person:

30 (1) not violate any criminal statute of any
31 jurisdiction;

32 (2) report to or appear in person before such
33 person or agency as directed by the court;

1 (3) refrain from possessing a firearm or other
2 dangerous weapon;

3 (4) not leave the State without the consent of the
4 court or, in circumstances in which the reason for the
5 absence is of such an emergency nature that prior consent
6 by the court is not possible, without the prior
7 notification and approval of the person's probation
8 officer. Transfer of a person's probation or conditional
9 discharge supervision to another state is subject to
10 acceptance by the other state pursuant to the Interstate
11 Compact for Adult Offender Supervision;

12 (5) permit the probation officer to visit him at
13 his home or elsewhere to the extent necessary to
14 discharge his duties;

15 (6) perform no less than 30 hours of community
16 service and not more than 120 hours of community service,
17 if community service is available in the jurisdiction and
18 is funded and approved by the county board where the
19 offense was committed, where the offense was related to
20 or in furtherance of the criminal activities of an
21 organized gang and was motivated by the offender's
22 membership in or allegiance to an organized gang. The
23 community service shall include, but not be limited to,
24 the cleanup and repair of any damage caused by a
25 violation of Section 21-1.3 of the Criminal Code of 1961
26 and similar damage to property located within the
27 municipality or county in which the violation occurred.
28 When possible and reasonable, the community service
29 should be performed in the offender's neighborhood. For
30 purposes of this Section, "organized gang" has the
31 meaning ascribed to it in Section 10 of the Illinois
32 Streetgang Terrorism Omnibus Prevention Act;

33 (7) if he or she is at least 18 17 years of age and
34 has been sentenced to probation or conditional discharge

1 for a misdemeanor or felony in a county of 3,000,000 or
2 more inhabitants and has not been previously convicted of
3 a misdemeanor or felony, may be required by the
4 sentencing court to attend educational courses designed
5 to prepare the defendant for a high school diploma and to
6 work toward a high school diploma or to work toward
7 passing the high school level Test of General Educational
8 Development (GED) or to work toward completing a
9 vocational training program approved by the court. The
10 person on probation or conditional discharge must attend
11 a public institution of education to obtain the
12 educational or vocational training required by this
13 clause (7). The court shall revoke the probation or
14 conditional discharge of a person who wilfully fails to
15 comply with this clause (7). The person on probation or
16 conditional discharge shall be required to pay for the
17 cost of the educational courses or GED test, if a fee is
18 charged for those courses or test. The court shall
19 resentence the offender whose probation or conditional
20 discharge has been revoked as provided in Section 5-6-4.
21 This clause (7) does not apply to a person who has a
22 high school diploma or has successfully passed the GED
23 test. This clause (7) does not apply to a person who is
24 determined by the court to be developmentally disabled or
25 otherwise mentally incapable of completing the
26 educational or vocational program;

27 (8) if convicted of possession of a substance
28 prohibited by the Cannabis Control Act or Illinois
29 Controlled Substances Act after a previous conviction or
30 disposition of supervision for possession of a substance
31 prohibited by the Cannabis Control Act or Illinois
32 Controlled Substances Act or after a sentence of
33 probation under Section 10 of the Cannabis Control Act or
34 Section 410 of the Illinois Controlled Substances Act and

1 upon a finding by the court that the person is addicted,
2 undergo treatment at a substance abuse program approved
3 by the court; and

4 (9) if convicted of a felony, physically surrender
5 at a time and place designated by the court, his or her
6 Firearm Owner's Identification Card and any and all
7 firearms in his or her possession.

8 (b) The Court may in addition to other reasonable
9 conditions relating to the nature of the offense or the
10 rehabilitation of the defendant as determined for each
11 defendant in the proper discretion of the Court require that
12 the person:

13 (1) serve a term of periodic imprisonment under
14 Article 7 for a period not to exceed that specified in
15 paragraph (d) of Section 5-7-1;

16 (2) pay a fine and costs;

17 (3) work or pursue a course of study or vocational
18 training;

19 (4) undergo medical, psychological or psychiatric
20 treatment; or treatment for drug addiction or alcoholism;

21 (5) attend or reside in a facility established for
22 the instruction or residence of defendants on probation;

23 (6) support his dependents;

24 (7) and in addition, if a minor:

25 (i) reside with his parents or in a foster
26 home;

27 (ii) attend school;

28 (iii) attend a non-residential program for
29 youth;

30 (iv) contribute to his own support at home or
31 in a foster home;

32 (v) with the consent of the superintendent of
33 the facility, attend an educational program at a
34 facility other than the school in which the offense

1 was committed if he or she is convicted of a crime
2 of violence as defined in Section 2 of the Crime
3 Victims Compensation Act committed in a school, on
4 the real property comprising a school, or within
5 1,000 feet of the real property comprising a school;

6 (8) make restitution as provided in Section 5-5-6
7 of this Code;

8 (9) perform some reasonable public or community
9 service;

10 (10) serve a term of home confinement. In addition
11 to any other applicable condition of probation or
12 conditional discharge, the conditions of home confinement
13 shall be that the offender:

14 (i) remain within the interior premises of the
15 place designated for his confinement during the
16 hours designated by the court;

17 (ii) admit any person or agent designated by
18 the court into the offender's place of confinement
19 at any time for purposes of verifying the offender's
20 compliance with the conditions of his confinement;
21 and

22 (iii) if further deemed necessary by the court
23 or the Probation or Court Services Department, be
24 placed on an approved electronic monitoring device,
25 subject to Article 8A of Chapter V;

26 (iv) for persons convicted of any alcohol,
27 cannabis or controlled substance violation who are
28 placed on an approved monitoring device as a
29 condition of probation or conditional discharge, the
30 court shall impose a reasonable fee for each day of
31 the use of the device, as established by the county
32 board in subsection (g) of this Section, unless
33 after determining the inability of the offender to
34 pay the fee, the court assesses a lesser fee or no

1 fee as the case may be. This fee shall be imposed in
2 addition to the fees imposed under subsections
3 (g) and (i) of this Section. The fee shall be
4 collected by the clerk of the circuit court. The
5 clerk of the circuit court shall pay all monies
6 collected from this fee to the county treasurer for
7 deposit in the substance abuse services fund under
8 Section 5-1086.1 of the Counties Code; and

9 (v) for persons convicted of offenses other
10 than those referenced in clause (iv) above and who
11 are placed on an approved monitoring device as a
12 condition of probation or conditional discharge, the
13 court shall impose a reasonable fee for each day of
14 the use of the device, as established by the county
15 board in subsection (g) of this Section, unless
16 after determining the inability of the defendant to
17 pay the fee, the court assesses a lesser fee or no
18 fee as the case may be. This fee shall be imposed
19 in addition to the fees imposed under subsections
20 (g) and (i) of this Section. The fee shall be
21 collected by the clerk of the circuit court. The
22 clerk of the circuit court shall pay all monies
23 collected from this fee to the county treasurer who
24 shall use the monies collected to defray the costs
25 of corrections. The county treasurer shall deposit
26 the fee collected in the county working cash fund
27 under Section 6-27001 or Section 6-29002 of the
28 Counties Code, as the case may be.

29 (11) comply with the terms and conditions of an
30 order of protection issued by the court pursuant to the
31 Illinois Domestic Violence Act of 1986, as now or
32 hereafter amended, or an order of protection issued by
33 the court of another state, tribe, or United States
34 territory. A copy of the order of protection shall be

1 transmitted to the probation officer or agency having
2 responsibility for the case;

3 (12) reimburse any "local anti-crime program" as
4 defined in Section 7 of the Anti-Crime Advisory Council
5 Act for any reasonable expenses incurred by the program
6 on the offender's case, not to exceed the maximum amount
7 of the fine authorized for the offense for which the
8 defendant was sentenced;

9 (13) contribute a reasonable sum of money, not to
10 exceed the maximum amount of the fine authorized for the
11 offense for which the defendant was sentenced, to a
12 "local anti-crime program", as defined in Section 7 of
13 the Anti-Crime Advisory Council Act;

14 (14) refrain from entering into a designated
15 geographic area except upon such terms as the court finds
16 appropriate. Such terms may include consideration of the
17 purpose of the entry, the time of day, other persons
18 accompanying the defendant, and advance approval by a
19 probation officer, if the defendant has been placed on
20 probation or advance approval by the court, if the
21 defendant was placed on conditional discharge;

22 (15) refrain from having any contact, directly or
23 indirectly, with certain specified persons or particular
24 types of persons, including but not limited to members of
25 street gangs and drug users or dealers;

26 (16) refrain from having in his or her body the
27 presence of any illicit drug prohibited by the Cannabis
28 Control Act or the Illinois Controlled Substances Act,
29 unless prescribed by a physician, and submit samples of
30 his or her blood or urine or both for tests to determine
31 the presence of any illicit drug.

32 (c) The court may as a condition of probation or of
33 conditional discharge require that a person under 18 years of
34 age found guilty of any alcohol, cannabis or controlled

1 substance violation, refrain from acquiring a driver's
2 license during the period of probation or conditional
3 discharge. If such person is in possession of a permit or
4 license, the court may require that the minor refrain from
5 driving or operating any motor vehicle during the period of
6 probation or conditional discharge, except as may be
7 necessary in the course of the minor's lawful employment.

8 (d) An offender sentenced to probation or to conditional
9 discharge shall be given a certificate setting forth the
10 conditions thereof.

11 (e) Except where the offender has committed a fourth or
12 subsequent violation of subsection (c) of Section 6-303 of
13 the Illinois Vehicle Code, the court shall not require as a
14 condition of the sentence of probation or conditional
15 discharge that the offender be committed to a period of
16 imprisonment in excess of 6 months. This 6 month limit shall
17 not include periods of confinement given pursuant to a
18 sentence of county impact incarceration under Section
19 5-8-1.2. This 6 month limit does not apply to a person
20 sentenced to probation as a result of a conviction of a
21 fourth or subsequent violation of subsection (c-4) of Section
22 11-501 of the Illinois Vehicle Code or a similar provision of
23 a local ordinance.

24 Persons committed to imprisonment as a condition of
25 probation or conditional discharge shall not be committed to
26 the Department of Corrections.

27 (f) The court may combine a sentence of periodic
28 imprisonment under Article 7 or a sentence to a county impact
29 incarceration program under Article 8 with a sentence of
30 probation or conditional discharge.

31 (g) An offender sentenced to probation or to conditional
32 discharge and who during the term of either undergoes
33 mandatory drug or alcohol testing, or both, or is assigned to
34 be placed on an approved electronic monitoring device, shall

1 be ordered to pay all costs incidental to such mandatory drug
2 or alcohol testing, or both, and all costs incidental to such
3 approved electronic monitoring in accordance with the
4 defendant's ability to pay those costs. The county board
5 with the concurrence of the Chief Judge of the judicial
6 circuit in which the county is located shall establish
7 reasonable fees for the cost of maintenance, testing, and
8 incidental expenses related to the mandatory drug or alcohol
9 testing, or both, and all costs incidental to approved
10 electronic monitoring, involved in a successful probation
11 program for the county. The concurrence of the Chief Judge
12 shall be in the form of an administrative order. The fees
13 shall be collected by the clerk of the circuit court. The
14 clerk of the circuit court shall pay all moneys collected
15 from these fees to the county treasurer who shall use the
16 moneys collected to defray the costs of drug testing, alcohol
17 testing, and electronic monitoring. The county treasurer
18 shall deposit the fees collected in the county working cash
19 fund under Section 6-27001 or Section 6-29002 of the Counties
20 Code, as the case may be.

21 (h) Jurisdiction over an offender may be transferred
22 from the sentencing court to the court of another circuit
23 with the concurrence of both courts. Further transfers or
24 retransfers of jurisdiction are also authorized in the same
25 manner. The court to which jurisdiction has been transferred
26 shall have the same powers as the sentencing court.

27 (i) The court shall impose upon an offender sentenced to
28 probation after January 1, 1989 or to conditional discharge
29 after January 1, 1992, as a condition of such probation or
30 conditional discharge, a fee of \$25 for each month of
31 probation or conditional discharge supervision ordered by the
32 court, unless after determining the inability of the person
33 sentenced to probation or conditional discharge to pay the
34 fee, the court assesses a lesser fee. The court may not

1 impose the fee on a minor who is made a ward of the State
 2 under the Juvenile Court Act of 1987 while the minor is in
 3 placement. The fee shall be imposed only upon an offender who
 4 is actively supervised by the probation and court services
 5 department. The fee shall be collected by the clerk of the
 6 circuit court. The clerk of the circuit court shall pay all
 7 monies collected from this fee to the county treasurer for
 8 deposit in the probation and court services fund under
 9 Section 15.1 of the Probation and Probation Officers Act.

10 (j) All fines and costs imposed under this Section for
 11 any violation of Chapters 3, 4, 6, and 11 of the Illinois
 12 Vehicle Code, or a similar provision of a local ordinance,
 13 and any violation of the Child Passenger Protection Act, or a
 14 similar provision of a local ordinance, shall be collected
 15 and disbursed by the circuit clerk as provided under Section
 16 27.5 of the Clerks of Courts Act.

17 (Source: P.A. 91-325, eff. 7-29-99; 91-696, eff. 4-13-00;
 18 91-903, eff. 1-1-01; 92-282, eff. 8-7-01; 92-340, eff.
 19 8-10-01; 92-418, eff. 8-17-01; 92-442, eff. 8-17-01; 92-571,
 20 eff. 6-26-02; 92-651, eff. 7-11-02.)

21 Section 25. The Sex Offender Registration Act is
 22 amended by changing Section 2 as follows:

23 (730 ILCS 150/2) (from Ch. 38, par. 222)

24 Sec. 2. Definitions.

25 (A) As used in this Article, "sex offender" means any
 26 person who is:

27 (1) charged pursuant to Illinois law, or any
 28 substantially similar federal, Uniform Code of Military
 29 Justice, sister state, or foreign country law, with a sex
 30 offense set forth in subsection (B) of this Section or
 31 the attempt to commit an included sex offense, and:

32 (a) is convicted of such offense or an attempt

1 to commit such offense; or

2 (b) is found not guilty by reason of insanity
3 of such offense or an attempt to commit such
4 offense; or

5 (c) is found not guilty by reason of insanity
6 pursuant to Section 104-25(c) of the Code of
7 Criminal Procedure of 1963 of such offense or an
8 attempt to commit such offense; or

9 (d) is the subject of a finding not resulting
10 in an acquittal at a hearing conducted pursuant to
11 Section 104-25(a) of the Code of Criminal Procedure
12 of 1963 for the alleged commission or attempted
13 commission of such offense; or

14 (e) is found not guilty by reason of insanity
15 following a hearing conducted pursuant to a federal,
16 Uniform Code of Military Justice, sister state, or
17 foreign country law substantially similar to Section
18 104-25(c) of the Code of Criminal Procedure of 1963
19 of such offense or of the attempted commission of
20 such offense; or

21 (f) is the subject of a finding not resulting
22 in an acquittal at a hearing conducted pursuant to a
23 federal, Uniform Code of Military Justice, sister
24 state, or foreign country law substantially similar
25 to Section 104-25(a) of the Code of Criminal
26 Procedure of 1963 for the alleged violation or
27 attempted commission of such offense; or

28 (2) certified as a sexually dangerous person
29 pursuant to the Illinois Sexually Dangerous Persons Act,
30 or any substantially similar federal, Uniform Code of
31 Military Justice, sister state, or foreign country law;
32 or

33 (3) subject to the provisions of Section 2 of the
34 Interstate Agreements on Sexually Dangerous Persons Act;

1 or

2 (4) found to be a sexually violent person pursuant
3 to the Sexually Violent Persons Commitment Act or any
4 substantially similar federal, Uniform Code of Military
5 Justice, sister state, or foreign country law; or

6 (5) adjudicated a juvenile delinquent as the result
7 of committing or attempting to commit an act which, if
8 committed by an adult, would constitute any of the
9 offenses specified in item (B), (C), or (C-5) of this
10 Section or a violation of any substantially similar
11 federal, Uniform Code of Military Justice, sister state,
12 or foreign country law, or found guilty under Article V
13 of the Juvenile Court Act of 1987 of committing or
14 attempting to commit an act which, if committed by an
15 adult, would constitute any of the offenses specified in
16 item (B), (C), or (C-5) of this Section or a violation of
17 any substantially similar federal, Uniform Code of
18 Military Justice, sister state, or foreign country law.

19 Convictions that result from or are connected with the
20 same act, or result from offenses committed at the same time,
21 shall be counted for the purpose of this Article as one
22 conviction. Any conviction set aside pursuant to law is not
23 a conviction for purposes of this Article.

24 For purposes of this Section, "convicted" shall have the
25 same meaning as "adjudicated".

26 (B) As used in this Article, "sex offense" means:

27 (1) A violation of any of the following Sections of
28 the Criminal Code of 1961:

- 29 11-20.1 (child pornography),
- 30 11-6 (indecent solicitation of a child),
- 31 11-9.1 (sexual exploitation of a child),
- 32 11-15.1 (soliciting for a juvenile prostitute),
- 33 11-18.1 (patronizing a juvenile prostitute),
- 34 11-17.1 (keeping a place of juvenile

1 prostitution),
 2 11-19.1 (juvenile pimping),
 3 11-19.2 (exploitation of a child),
 4 12-13 (criminal sexual assault),
 5 12-14 (aggravated criminal sexual assault),
 6 12-14.1 (predatory criminal sexual assault of a
 7 child),
 8 12-15 (criminal sexual abuse),
 9 12-16 (aggravated criminal sexual abuse),
 10 12-33 (ritualized abuse of a child).

11 An attempt to commit any of these offenses.

12 (1.5) A violation of any of the following Sections
 13 of the Criminal Code of 1961, when the victim is a person
 14 under 18 years of age, the defendant is not a parent of
 15 the victim, and the offense was committed on or after
 16 January 1, 1996:

17 10-1 (kidnapping),
 18 10-2 (aggravated kidnapping),
 19 10-3 (unlawful restraint),
 20 10-3.1 (aggravated unlawful restraint).

21 An attempt to commit any of these offenses.

22 (1.6) First degree murder under Section 9-1 of the
 23 Criminal Code of 1961, when the victim was a person under
 24 18 years of age, the defendant was at least 18 ~~17~~ years
 25 of age at the time of the commission of the offense, and
 26 the offense was committed on or after June 1, 1996.

27 (1.7) (Blank).

28 (1.8) A violation or attempted violation of Section
 29 11-11 (sexual relations within families) of the Criminal
 30 Code of 1961, and the offense was committed on or after
 31 June 1, 1997.

32 (1.9) Child abduction under paragraph (10) of
 33 subsection (b) of Section 10-5 of the Criminal Code of
 34 1961 committed by luring or attempting to lure a child

1 under the age of 16 into a motor vehicle, building, house
2 trailer, or dwelling place without the consent of the
3 parent or lawful custodian of the child for other than a
4 lawful purpose and the offense was committed on or after
5 January 1, 1998.

6 (1.10) A violation or attempted violation of any of
7 the following Sections of the Criminal Code of 1961 when
8 the offense was committed on or after July 1, 1999:

9 10-4 (forcible detention, if the victim is
10 under 18 years of age),

11 11-6.5 (indecent solicitation of an adult),

12 11-15 (soliciting for a prostitute, if the
13 victim is under 18 years of age),

14 11-16 (pandering, if the victim is under 18
15 years of age),

16 11-18 (patronizing a prostitute, if the victim
17 is under 18 years of age),

18 11-19 (pimping, if the victim is under 18
19 years of age).

20 (1.11) A violation or attempted violation of any of
21 the following Sections of the Criminal Code of 1961 when
22 the offense was committed on or after the effective date
23 of this amendatory Act of the 92nd General Assembly:

24 11-9 (public indecency for a third or
25 subsequent conviction),

26 11-9.2 (custodial sexual misconduct).

27 (1.12) A violation or attempted violation of
28 Section 5.1 of the Wrongs to Children Act (permitting
29 sexual abuse) when the offense was committed on or after
30 the effective date of this amendatory Act of the 92nd
31 General Assembly.

32 (2) A violation of any former law of this State
33 substantially equivalent to any offense listed in
34 subsection (B) of this Section.

1 (C) A conviction for an offense of federal law, Uniform
2 Code of Military Justice, or the law of another state or a
3 foreign country that is substantially equivalent to any
4 offense listed in subsections (B), (C), and (E) of this
5 Section shall constitute a conviction for the purpose of this
6 Article. A finding or adjudication as a sexually dangerous
7 person or a sexually violent person under any federal law,
8 Uniform Code of Military Justice, or the law of another state
9 or foreign country that is substantially equivalent to the
10 Sexually Dangerous Persons Act or the Sexually Violent
11 Persons Commitment Act shall constitute an adjudication for
12 the purposes of this Article.

13 (C-5) A person at least 18 17 years of age at the time
14 of the commission of the offense who is convicted of first
15 degree murder under Section 9-1 of the Criminal Code of 1961,
16 committed on or after June 1, 1996 against a person under 18
17 years of age, shall be required to register for natural life.
18 A conviction for an offense of federal, Uniform Code of
19 Military Justice, sister state, or foreign country law that
20 is substantially equivalent to any offense listed in
21 subsection (C-5) of this Section shall constitute a
22 conviction for the purpose of this Article.

23 (D) As used in this Article, "law enforcement agency
24 having jurisdiction" means the Chief of Police in each of the
25 municipalities in which the sex offender expects to reside,
26 work, or attend school (1) upon his or her discharge, parole
27 or release or (2) during the service of his or her sentence
28 of probation or conditional discharge, or the Sheriff of the
29 county, in the event no Police Chief exists or if the
30 offender intends to reside, work, or attend school in an
31 unincorporated area. "Law enforcement agency having
32 jurisdiction" includes the location where out-of-state
33 students attend school and where out-of-state employees are
34 employed or are otherwise required to register.

1 (E) As used in this Article, "sexual predator" means any
2 person who, after July 1, 1999, is:

3 (1) Convicted for an offense of federal, Uniform
4 Code of Military Justice, sister state, or foreign
5 country law that is substantially equivalent to any
6 offense listed in subsection (E) of this Section shall
7 constitute a conviction for the purpose of this Article.
8 Convicted of a violation or attempted violation of any of
9 the following Sections of the Criminal Code of 1961, if
10 the conviction occurred after July 1, 1999:

11 11-17.1 (keeping a place of juvenile
12 prostitution),

13 11-19.1 (juvenile pimping),

14 11-19.2 (exploitation of a child),

15 11-20.1 (child pornography),

16 12-13 (criminal sexual assault, if the victim
17 is a person under 12 years of age),

18 12-14 (aggravated criminal sexual assault),

19 12-14.1 (predatory criminal sexual assault of
20 a child),

21 12-16 (aggravated criminal sexual abuse),

22 12-33 (ritualized abuse of a child); or

23 (2) convicted of first degree murder under Section
24 9-1 of the Criminal Code of 1961, when the victim was a
25 person under 18 years of age and the defendant was at
26 least 18 ~~17~~ years of age at the time of the commission of
27 the offense; or

28 (3) certified as a sexually dangerous person
29 pursuant to the Sexually Dangerous Persons Act or any
30 substantially similar federal, Uniform Code of Military
31 Justice, sister state, or foreign country law; or

32 (4) found to be a sexually violent person pursuant
33 to the Sexually Violent Persons Commitment Act or any
34 substantially similar federal, Uniform Code of Military

1 Justice, sister state, or foreign country law; or

2 (5) convicted of a second or subsequent offense
3 which requires registration pursuant to this Act. The
4 conviction for the second or subsequent offense must have
5 occurred after July 1, 1999. For purposes of this
6 paragraph (5), "convicted" shall include a conviction
7 under any substantially similar Illinois, federal,
8 Uniform Code of Military Justice, sister state, or
9 foreign country law.

10 (F) As used in this Article, "out-of-state student"
11 means any sex offender, as defined in this Section, or sexual
12 predator who is enrolled in Illinois, on a full-time or
13 part-time basis, in any public or private educational
14 institution, including, but not limited to, any secondary
15 school, trade or professional institution, or institution of
16 higher learning.

17 (G) As used in this Article, "out-of-state employee"
18 means any sex offender, as defined in this Section, or sexual
19 predator who works in Illinois, regardless of whether the
20 individual receives payment for services performed, for a
21 period of time of 10 or more days or for an aggregate period
22 of time of 30 or more days during any calendar year. Persons
23 who operate motor vehicles in the State accrue one day of
24 employment time for any portion of a day spent in Illinois.

25 (Source: P.A. 91-48, eff. 7-1-99; 92-828, eff. 8-22-02.)

26 Section 95. This Act applies only to persons arrested
27 before their 18th birthday if the arrest occurred on or after
28 the effective date of this amendatory Act of the 93rd General
29 Assembly. Any person arrested who was 17 years of age but
30 under 18 years of age and the arrest occurred before the
31 effective date of this amendatory Act of the 93rd General
32 Assembly shall be prosecuted under the criminal laws of this
33 State.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".